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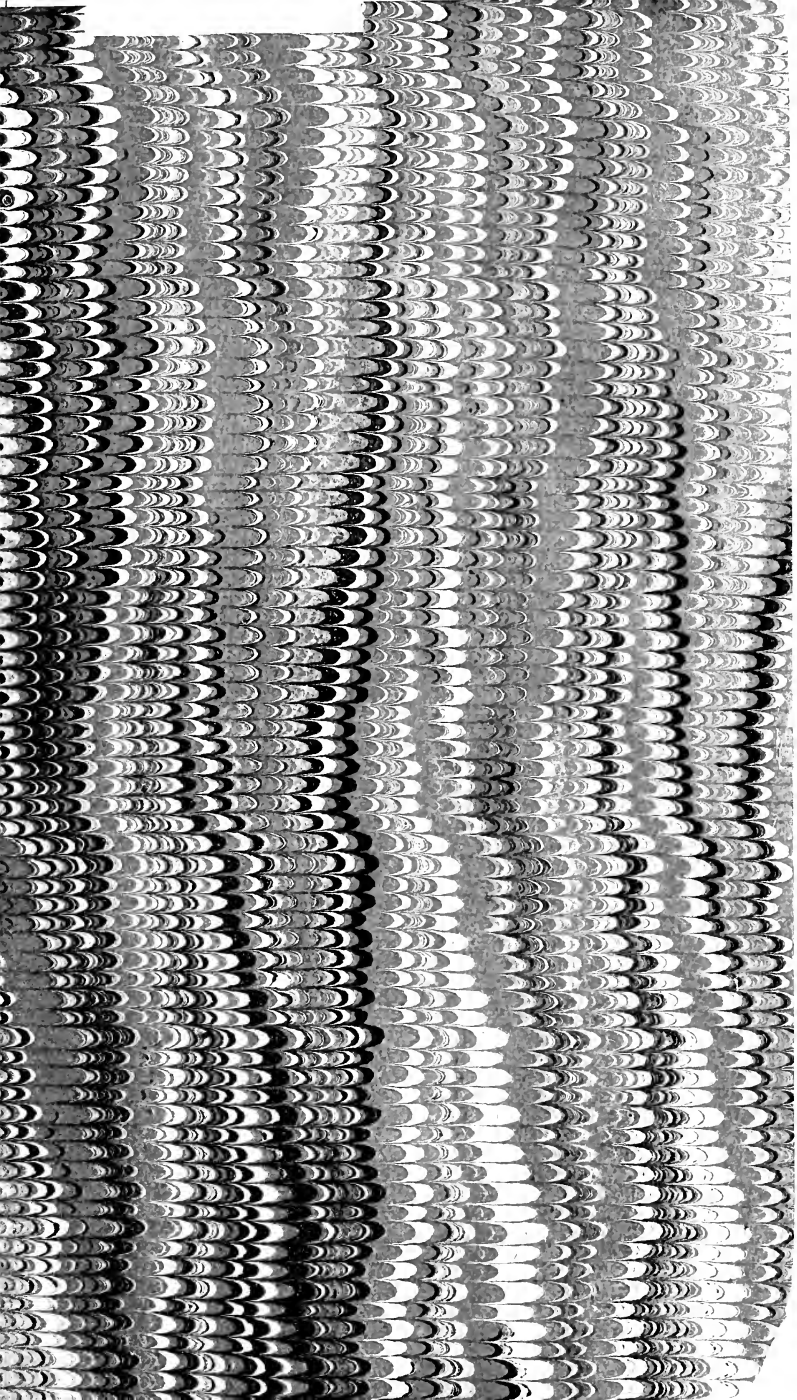
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UNITED STATES OF AMERICA.















Presented

By the author

To his Excellency John Tyler

Whose attention is most respectfully invited

to the 4<sup>th</sup> & 5<sup>th</sup> Nos.



# FEDERALISM:

OR

## THE QUESTION OF EXCLUSIVE POWER,

THE TRUE ISSUE IN THE

## PRESENT MONETARY AND POLITICAL DISCUSSIONS

IN THE

## UNITED STATES.

Abstract Truth is an "air line" drawn by theorists, which often cannot be followed without Mischief or Defeat. *Practical Truth* is a line on the face of the earth, run by Innocence and Wisdom, and followed by DISCRETION.

Surely ! it would be madness sheer  
To run the dirty muck AGAIN—  
To barter *Principle* for filthy lucre—  
Your *Liberty* for trash and fraud.

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BY JOHN W. KING, M. D.

Covington, Ky.

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SECOND EDITION.

*CINCINNATI:*

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No. 26 Pearl Street.

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1841.

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TO ALL TRUE PATRIOTS,  
THE FOLLOWING NUMBERS ARE INSCRIBED,

WITH THE REQUESTS THAT THEY WILL

“Read, think and reflect—Read, reflect and think,”

And then pass them in succession to all

WHO WILL DO LIKEWISE,

AND OBLIGE

THE AUTHOR.

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Entered according to an act of Congress, in the year 1841, by U. P. JAMES, in the Clerk's Office of the District Court of the United States, in and for the District of Ohio.

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R. P. Brooks, Printer.

# FEDERALISM.

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## NO. I.

MR. JOHN C. WRIGHT :—*Sir*—You must be amused, for surely I am, at the great solicitude which is so frequently manifested of late by many of the friends of *both* the candidates for the chief executive office of this Union, for the ensuing four years, that their respective aspirants shall not, by any means whatever, be considered Federalists. But in sober earnest we should *not* be amused.

If by Federalist you mean one who believes that our general government has the exclusive and “supreme” right under the Federal Constitution, to exercise all the powers especially delegated to it by that instrument, and *all* the auxiliary and incidental powers which, in honesty and good faith, shall be deemed “NECESSARY and PROPER” to carry these special powers into efficient and beneficent action ; “*provided* they are not forbidden to the General Government, or reserved to the States or to the people ;” then we *all* should be Federalists. If Whiggery means not that—if Democracy means not that—if Restrictionism means not that—if Nullification means not that—then I am neither Whig, Democrat, Restrictionist nor Nullifier, but a Federalist, “and the most offending soul alive.”

Why then all this *deep* solicitude not to be thought a Federalist ? Are we determined to generate and keep alive feelings inimicable to the happiness and to the durability of the Union of these States ? Are we determined to *educate* the people in each and every State to be Nullifiers in *feeling* ? Are we resolved that our young men shall be raised up with an habitual indisposition from early life, to concede to the General

Government the free and full exercise of all its legitimate powers, for the fear of being branded with the odium of Federalism? Is the mad dog epithet of Federalist to be perpetually held in *terrorem* by knaves and fools, to excite the fears and to warp the understandings of the young and inexperienced—to pander to the ignorance and prejudices of the many, and finally to bring your system of “*E Pluribus Unum*” back to the rope of sand of the old confederacy?

Sir, our system of government should in its action be eminently educational. If it was founded upon too high a scale for the moral and intellectual standard of the people at the time of its adoption, continual efforts should be made to bring them *up* to the standard which was *assumed* for them. Can terrifying appeals, catch-words and political humbuggery do *that*! Do these produce an enlightened discussion of the principles of your form of government, or a dignified and patriotic vindication of its true policy? No, Sir, no. On the contrary, as “ye sow shalt thou reap,” until the “confusion of tongues” shall become worse confounded, and our “Babel” confederacy, which aspired to heaven, to be a “beacon light” to all nations, shall be given up to destruction, and be scattered into its original elements. To ward off this dreadful catastrophe the press should be reformed. It should no longer be the retained council of party to make virtue look like vice, and vice look like virtue. It should cease for party purposes to throw dust into the public eyes. It should abjure all humbuggery and political jockeyship. It should, every where and with “trumpet tongue,” proclaim

Truth! truth! alone,  
 “Bear witness earth and heaven,”  
 Is necessarily beneficent to man;  
 And ’twas error potent of mischief,  
 That ruined all.

The writer pretends not to infallibility in his political opinions—“to err is human.” But no man should “love darkness rather than light,” because it is the

true interest of no man, and most certainly of no nation. Otherwise heaven would be false. That in mere matters of opinion there should be honest and patriotic differences of sentiment, was to be expected. In fact, it rarely happens that truth can be ascertained by a "balance or a two foot rule." Like many things very valuable, it was ordained to be procured slowly and by hard labor in many instances. The toil of patient investigation and the collisions of mind, and the inspirations of spirit-stirring debate, were made necessary and for wise purposes to evolve it. But with these, proscription, humbuggery and catch-words have no alliance ; *they* are employed to excite prejudice—to gull the credulous—to mislead the foolish, and not to release the understanding from the shackles of the one or the frauds of the others.

Yes, Sir, our government being eminently in its practical administration, a government of public opinion, these malign influences should be discountenanced which mislead and corrupt that public opinion—which convert it from the true faith into political heresies, and necessarily place it under the lead of the very worst men in the nation—the desperate and unprincipled who are willing to generate popular ignorance, prejudice and corruption, in which *only they* can live, move and have an infamous existence. It is in this way that a bribe comes in effect to be offered to every man in the nation to become a scoundrel in conduct, if not in principle, and a rebel to the constitution of his country. It is in this way that error begets error, and corruption begets corruption, until it becomes absolutely unpopular to advocate virtue, good faith, the rights of property, the continuance of this Union, the dignity of the law, the supremacy of the constitution, or the obligations of an oath to sustain either. It is in this way that we distinctly see the potency of the press for good or for evil, for weal or for woe to this nation. Yes, it was assumed by our forefathers, when they ordained that it shall be free, that it would be patriotic, that it would be honest, that it

would be independent, and hence they declared it to be "the bulwark of liberty." But to be thus, it is clear that it should be the advocate of principles and not of men, of practical truth and not of theoretical or popular error—of the good, "the just," and the wise, and the terror only of those that do evil. To act otherwise is to subvert its purpose, to make it the bulwark of party, to address it to the passions, and prejudices and ignorance of the people, and not to their understandings. It is to deny the principle of self-government, guided by reason, justice, and good faith, and to substitute that of an irresponsible majority, called party, which can do no wrong.

Is this the case now? Is it destined to be the case shortly? Then our experiment of self-government is already advancing to a close. It was based upon two false assumptions—the virtue and intelligence of the people, and the patriotism and independence of the press. But, if the affirmative be true, is all lost? Yes, unless the press shall go to the right-about and educate themselves and the people up to the true standard of civilization and patriotism which old George Washington and Ben Franklin *assumed* for them. If this is not done, how can the superstructure stand, if the foundation in morals, intelligence, and unflinching regard for sound political principles, never existed, or is being rapidly undermined? How can it stand when the warder on the watch is overawed or bribed, or is unwittingly occupied in the sap and mine to overthrow it? 'Tis impossible. Then it behooves the press to *begin the reform of the government* in the exposition and maintenance of sound political principles, regardless of the mad-dog epithets of federalist, or any other denunciatory slang halloed by knaves and fools. If we are all federalists and all democrats, as Mr. Jefferson would say, (if he were alive and *had* secured *his* election) then let us so understand it—if not, let this war of catch-words end, and come down at once to the honest and frank declaration of political faith and the full and free discussion of political principles in their application to leading political measures.



This is what the writer would propose attempting in some two or three additional numbers. But he protests against entering the strife and personality of party. He has no affinity for that. He would address himself to the understanding, and not to the passions. He would assume that all desire, as much as he does, the discovery of *facts* and the support of truth *only*.

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## NO. II.

MR. JOHN C. WRIGHT :—*Sir*—You are well aware that formularies of faith, whether in religion or in politics, embody professions only. They don't constitute religion in the one any more than they do patriotism in the other. By their fruits only can ye know them. The writer therefore, in the censures of the press and of the times, contained in his first number, and which *may* appear in the subsequent, does not desire to be considered better than other men. He is no political pharisee that he would rebuke or revile others to set forth his own assumed perfectibility. No, sir ! But as the ceremonies of religion contribute to make man act right, think right, and feel right towards himself, his neighbor and his God ; so, "frequent recurrence to fundamental principles" in politics, strenuously enjoined by the Father of his Country, purifies political sentiment, elevates the standard of patriotism among us, and maintains and sharpens that eternal vigilance which detects incipient abuse, and stays the subtle ingress of secret, silent revolution.

Although, as remarked in the first number, the writer pretends not to infallibility ; yet he is fearless and firm in the opinion,

*First*, That the people\* of the United States, by the

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\* Although the Government of the United States was founded in "compact" or consent or agreement of *each* State to frame it, yet, it cannot cease to exist by agreement of less than three fourths, and is clothed by the people who adopted it through State conventions elected for the special purpose with a substantive, inde-

institution of the General Government, ordained themselves to be ONE NATION for certain *general purposes*, set forth in the preamble to the Federal Constitution, viz. : “to form a more perfect union, to establish justice, ensure domestic tranquillity, to pay the debts, to provide for the common defence, to promote the general welfare, and to secure the blessings of liberty to themselves and posterity.”

*Second*, To accomplish or secure these *general* objects or purposes, the people further ordained that this general government shall be endowed with certain enumerated powers, viz. : among others the power to declare war and to make peace ; the power to make treaties, and the power to regulate commerce with foreign nations and “*among* the several states and with the Indian tribes ; the power to lay and collect taxes, duties, imposts and excises,” for the purpose of “paying the debts and to provide for the common defence and the general welfare of the United States ;” the power “to coin money, to regulate the value thereof and of foreign coins, and to fix the standard of weights and measures ;” the power of exclusive legislation “in all cases whatsoever over such District, not exceeding ten miles square, as may by cession of particular States, and the acceptance of Congress, become the seat of the General Government of the United

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pendent existence equally with that of the State governments, and with all the responsibilities and many of the attributes of delegated sovereignty which the states do not possess, and which never can be taken from the General Government except by usurpation or consent of the people expressed, as provided for in the instrument of their adoption.

The Constitution of the United States therefore is an emanation of the people of each State acting in their sovereign capacity to form a *common* Government to guarantee the equal rights and common interests of the citizens of the United States, and of the States of the confederacy, and for these purposes was endowed by the people with unity of character, free agency, supremacy and exclusiveness in the sphere of its action, and with the right to use physical force to preserve its existence and to enforce its volitions. In short, it is a responsible political personage acting for the people and for the States from which it emanated.

States : and finally, under the seventeenth number of the eighth section, first article, is given the power to make "all laws **NECESSARY AND PROPER** for carrying into effect the foregoing powers, and all others vested by this Constitution in the Government of the United States, or in any department or office thereof ;" and to provide for the peace and harmony of the Union, in the final settlement of all questions of disputed jurisdiction, and of right and equity arising under the constitution, the laws of the United States, treaties, &c., the whole subject matter was placed by the people under the exclusive jurisdiction and adjustment of the Judicial power of the United States, by the first number of the sixth article of the Federal Constitution, which declares that "this constitution and the laws made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land, and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding."

But to make assurance doubly sure, the people were not content with the enunciation of the *general* purposes of the Government which they had instituted, nor with the specific delegations, limitations and prohibitions of powers which they had conferred and imposed on it, but in the

Fourth place, among other things, they ordained that "no state shall enter into treaty of alliance or confederation ; grant letters of marque and reprisal ; coin money ; emit bills of credit ; make any thing but gold and silver coin a tender in payment of debts." Nor "without the consent of Congress lay any imposts or duties, on imports or exports except what may be *absolutely* necessary for executing its inspection laws," &c. &c.

But as if to eke out their guards of human rights, and to secure and guarantee the successful and happy results of the sublime experiment which was then being made to bring order out of chaos—strength out of weak-

ness, and to give **UNITY** of government for certain purposes to thirteen sovereign states, full of patriotism and invincible enterprise, the people ordained, in the ninth article of the amendment to the Federal Constitution, "that the **ENUMERATION** in this constitution of certain rights, shall not be construed to deny or disparage **OTHERS** retained ("reserved") by the people." And the tenth article declares that "the powers *not* delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." This *tenth* article brings us to that position in our constitutional analysis at which it is necessary to hug the subject to eviscerate the truth, and forever to overturn the sophisms with which ignorance, subtlety and demagogism have enveloped, and mystified the seventeenth number of the eighth section of the first article, and the ninth and tenth articles of the amendments.

It may then, to illustrate this subject, be at once asked in the language of the tenth article, what powers are "*not* delegated to the United States by the constitution?" Surely the prohibited powers are "not delegated." Surely the reserved powers are "not delegated." Surely the power to pass *unnecessary and improper* laws is not delegated. But surely all the enumerated powers are delegated, and the power "to pass all laws necessary *and* proper," to carry them into effect, and all others granted by the constitution, is delegated. This is incontestible. To contend otherwise would be to introduce the word "specially" (proposed by Mr. Lee in the Virginia Convention and rejected,) before the word "granted" in the tenth article *then* under consideration, and thereby to nullify the seventeenth number of the eighth section of the first article, above quoted.

It clearly results, then, that the *theory* of government of the Federal Constitution is displayed in the prohibitions, reservations, enumerations, and limitations of its powers. Its *practice* in the full and free exercise of **ALL** the auxiliary powers "necessary" (not indis-

pensable\*) as means to ends, and "proper," that is, not forbidden or reserved, and in harmony with its theory, and promotive of the great general purposes of its institution. It farther results, as it should, that the Federal Constitution is in part a government of fundamental written principles or rules, and in part a government of *policy, or discretion, or choice*; and, finally, that it necessarily is, as it is declared to be, "supreme," and exclusive in the sphere of its action, "the constitution and laws of any state to the contrary notwithstanding."

But, sir, we will not deal alone in political abstractions; we will make an application of our political formulary and the principles it involves, to the purposes of life, and see how they work. We will touch some of the disturbing questions which have agitated our country, and are destined, unless public opinion is made sound and kept sound, to rock it to its centre. We will show "to him that runneth," that none of the "necessary and proper powers" for the general government to exercise, to make it an enlightened and beneficent agency, were intended to be withheld, either under the residuary clause of the ninth article, or the declarations of the tenth of the amendments. But that the words "necessary and proper," in the seventeenth number of the eighth section of the first article qualify the reservation of the ninth article and expound the declaration of the tenth of the amendments.

In execution of this purpose, the writer will, first, in the next No., briefly review the cession and purchase of Louisiana in the way of preliminary and familiar illustration. He will then pass to the tariff and abolition, and conclude with the currency question, which last he proposes to touch in its ultimate element and array of important and irresistible alternatives.

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\* The word indispensable is not to be found in the federal constitution.

## NO. III.

MR. JOHN C. WRIGHT :—*Sir*.—In our second number it was distinctly shown that the people, in organizing the General Government, incorporated into the Federal Constitution four principles essential to its existence, as the central and *common* government, of an indefinite number of sovereign States, viz : unity, exclusiveness, supremacy, and free agency in the legitimate sphere of its action, and for the purposes of its creation. It was farther shown that the great outline of its sphere of action is naturally inscribed in the general purposes of its institution, set forth in the preamble to the Federal Constitution, but more particularly marked out and defined by the enumeration, and limitation and prohibition of powers specifically made, save and except the powers turned over to its DISCRETION under the general grants of the sixteenth and seventeenth numbers of the eighth section of the first article, limited by the words “necessary and proper.”

In testing, therefore, the legitimacy of any particular measure of the General Government—as for example, the purchase of Louisiana, the question may at once be asked, is the power to purchase or to acquire foreign territory in any way reserved to the States ? No ! On the contrary, in the first article of the tenth section, the states are prohibited to “enter into any treaty ;” and in the second, they are again inhibited to enter into any agreement or compact with another state or foreign power. Is it “reserved to the people ?” No, not by enumeration. Is it expressly delegated to the Congress, or prohibited ? No ! But is it a nonenumerated, “retained” power by the people under the ninth article of the amendments ? That is the only point to be decided. Discovering, then, that the power to purchase or to seize foreign territory in war, and to retain it in peace, is not contained in the enumerated powers delegated to the General Government, we at once come irresistibly to the conclusion, that neither the purchase

or seizure can be made constitutionally to gratify national ambition, or national avarice, or individual glory, or to extend the bounds of the confederacy solely to propagate free principles in government? No! the people have given no power for *such* purposes. There must be some more urgent if not higher motive for action. There must be peculiar considerations of policy, based essentially in great and enduring national interests, connected with its internal harmony, its integrity, its commerce, its peace and safety, to make it a "necessary *and* proper" measure and a legitimate incident of either the war-making, or the treaty-making, or the commercial power, as the character of the expedient consideration may in the particular case happen to be.

But to illustrate this important matter still farther, we will suppose the proposition was now made to purchase the Islands of Ceylon, Madagascar, or Cuba, or to seize the great *naval* station of Halifax and Province of Nova Scotia, under the war-making power, and hold them as colonies. Could its necessity and its propriety be at all shown to exist at *this* time? Certainly not. But will any one assert that that necessity and propriety never can, under any change of circumstances, come to exist, and especially in relation to the latter and to the great southern anti-arctic continent? I augur not. Yes sir, the day the treaty purchasing Louisiana, was ratified by the Senate of the United States, and concurred in by the people of this country, they forever decided that the General Government of this nation has two sets of powers, the enumerated and the auxiliary, and to which last they have affixed the words "necessary and proper," as the only constitutional limitations. This is history, otherwise it would be called Federalism, and the memory of Mr. Jefferson blasted for political heresy, which is now immortalized for political usurpation.\*

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\* It is obvious that the discretionary power given to Congress by the xvi. number of the viii. section, first article, "to legislate in all cases whatsoever" for the District of Columbia, is in like manner limited by the words "necessary and proper," contained in

But, sir, we will pass from this familiar historical illustration, to the vexed question of the Tariff, which it will help us to elucidate. And here let it be said, once for all, that we want nothing but our principles, and the **FACTS** in relation to a Tariff, more or less protective, for it is a question of more or less, to do that perfectly. For it is clear that the eighth section of the Federal Constitution gives the power to impose a Tariff exclusively to Congress, and forbids the power to the States, except what may be "absolutely necessary for executing their inspection laws." But it is equally certain, that for the purpose of securing equality and justice, it is delegated with very important limitations or restrictions.

First, no tax or duty shall be laid on articles exported from any State. Second, no preference shall be given by any regulation of commerce or revenue, to the ports of one State over those of another. Third, Nor shall vessels bound to or from any State, be obliged to enter, clear, or pay duties in another. Fourth, That all duties, imposts, and excises shall be uniform throughout the United States ; and Fifth, That the proceeds of all taxes, duties, imposts and excises, thus fairly and equally collected, shall be "to pay the debts and to provide for the common defence and the general welfare." So far it seems incontestible that the whole revenue power by duties, imposts and excises, is exclusively delegated to Congress. But the transcendently important question raised is, has Congress the right to impose duties, not for the purpose of necessary revenue only, but for the purpose of "*protection* ;" first of the nation against the evils of excessive importation of foreign manufactured goods, and second, of particular

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the succeeding article of the same section which refers to all discretionary power which Congress in the *practice* of the Government is and must be necessarily called upon from time to time to exercise, whether in the District or out of it. The power of legislation in *any* case never *vests* unless it is specially granted or can be proved to be "necessary and proper" to accomplish a legitimate end or delegated object.



departments of labor and capital, against the overwhelming competition of foreign labor and capital?

In reply it may be answered, that it is clear that no distinct enumerated power is given to Congress to allow drawbacks, or to impose discriminating duties in favor of domestic tonnage for the general benefit of the nation, and for the peculiar protection and benefit of the shipping interest. Yet it was done in the foundation of our commercial policy, and rightfully done under the sanction of the general obligation and conservative power imposed and conferred upon Congress, to do that for the states of the confederacy, which, in their individual capacities, they *could* and *would* have done for themselves : but which in their confederate capacity, they cannot individually perform, and which therefore, they necessarily devolve upon their general government to do for them. That government being the exclusive depositum of the great commercial, revenue, and war-making powers of the Union, is alone competent, as it was thereby constituted to be, to take charge of the general interests to be sustained or protected through the vigorous and judicious administration of those powers. But it must be of the general interests and "the common welfare" only, and not of partial interests and of local individual welfare at the expense of the principles of justice. It must be to do equal justice or rather not to do injustice. Its commission is *not* to make fish of one part of the community, and fowl of another," but, "with equal eye as" the government of all to pursue the injunction which pervades the Federal Constitution in relation to the exercise of the whole revenue power, that it shall be just, "uniform," and equal in its imposition, collection and appropriation, as far as may be. To the extent then that Congress can exercise the revenue power to protect the labor and the capital of the country upon these principles, they certainly have the right and are bound to do so, whether that labor and that capital is employed on the ocean or on the land.

Assuming then that Congress have the entire sove-

reign power over the subject matter of the tariff, which none will deny, and assuming that a *high* tariff is necessary to protect the *nation* against the excesses of foreign importations, and the northern manufacturer against the overwhelming competition of foreign capital and intrigue, and pauper labor to destroy him ; yet it may be asked, is it "PROPER" through a *high* tariff of protection, to bring a large surplus revenue into the national treasury, beyond the wants of an economical administration of the general government, and is it just and "proper" to tax the producers of the whole country in their *consumption* to accomplish the above purposes ? It may be answered most unhesitatingly, NO ! But it is denied by the advocates of "a *judicious*" tariff, that it would bring a large surplus revenue into the Treasury, or tax the northern and southern consumer at an extra rate beyond the first moments of its action. On the contrary, it is contended that experience demonstrates that low duties and a depreciated currency bring all the excesses of revenue and overtrading, irregularity of prices, destruction of domestic competition, monopoly of the home market by foreign producers, and ultimate high prices to the domestic consumer over and above those of the temporary enhancement of incipient protection. That to give full and certain possession of the domestic market to domestic labor and capital by a "judicious tariff" and a sound currency always at par with gold and silver, will be to effect a more equal distribution of the national labor and capital ; to steady prices by creating and securing on a firm basis of national protection and finance an equal and constantly operating domestic competition, and thereby to establish a fair ratio of profit, the necessary effect of inviting and fixing capital and labor from abroad and at home in the permanent occupations of the country to supply its increasing demands.

If the above be facts, then there can be no doubt that Congress have the power, and should exercise it, for the "general good and the common welfare," one

of the avowed objects for which the taxing power was delegated to Congress, and the only constitutional sanction, as was above conclusively shown, (or that made it "necessary and proper") to TAX the people of the United States \$15,000,000 for the purchase of Louisiana. But it is positively denied that under the existing SYSTEM of banking in this country, Congress can establish an efficient system of protection. It is positively asserted, that a monetary system of depreciation necessarily is incompatible with a permanent system of protection. Congress may indeed establish a system of protection on the statute book, but it will be overthrown and necessarily neutralized in the market by the depreciated currency issued by an indefinite number of banks of circulation and accommodation, acting in no concert, and in which the foreign competitor sells and realizes in gold and silver, or in cotton, &c. at Liverpool prices, but in which he does not produce.

But these remarks very naturally lead the writer to the third subject, which he proposed to bring to the test of the principles contained in his formulary of political faith, viz: the Currency. But he will beg leave to take up that and the subject of Abolition in the next number.

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#### NO. IV.

MR. JOHN C. WRIGHT: *Sir*,—You will recollect that in our third number we reduced the difficulty in relation to the Tariff of protection to a matter of FACT, or rather to a question of fact, and came decisively to the conclusion to which every patriot must be happy to arrive, that in the event it is true, as its friends contend, that a "judicious tariff" of protection will not necessarily work inequality and injustice to different sections of this country; nor produce extravagance and corruption in the expenditures of the government

through a large surplus revenue; nor sacrifice the export producer for the peculiar benefit of the domestic manufacturer, it should be favored by all. Yes! if by checking excess of importations, it checks excess of revenue—if by insuring the domestic market to domestic labor and capital, it thereby effects its more equal distribution and permanent investment—if by establishing steady home competition, it establishes steady home prices, the very assurance of which will quickly equalize the ratio of profit in the protected interests with other occupations of capital and labor, and by growing up a market at home, in which ALL can either sell or buy, the very best guarantee will then be given for independence and plenty in peace, and vigor and invincibility in war. But you will recollect it was likewise confidently and fearlessly asserted, that these very desirable purposes cannot be effected under our present system of currency—that the system of banks of accommodation\* and circulation is essentially a system of alternate depreciation and appreciation—and that depreciation in the currency is absolutely incompatible with a permanent and efficient system of protection. In fact, it might have been asserted that the sum of the depreciation at any time, of your domestic currency, over and above the nominal amount of your protective duty, is the premium offered to foreign labor in your currency to overthrow your domestic labor—for turn it as you will, the true issue is not between

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\* The writer forbears to trespass on the patience of those who may peruse these articles, to demonstrate that banks of "accommodation" are necessarily banks of depreciation. The history of France, England, Ireland, and this country, prove it, to say nothing of the universal concurrence of all writers from Adam Smith to the present day. It is therefore assumed, in these communications, as likewise that their paper may be depreciated whilst all the banks pay specie, which, together with the paper, becomes depreciated, and for that reason begins to leave the country. Hence contractions and suspensions follow in the train of depreciation as necessary consequences; and hence "the winter of our discontent," which ever follows inflation as the inevitable alternatives. It is history, and therefore it was unnecessary to prove it.

the American laborer and the American capitalist—it is not the issue of high wages and low wages between them. No, sir; but the true issue is of life and death between American labor sustained by American capital, and foreign labor sustained by foreign capital. Break down your domestic capitalist and what becomes of your domestic laborer? It is self-evident; and that presents the true issue to which you come at last. Their reciprocal dependance and connection is that of the “belly and the limbs,” and the policy that would separate them in this struggle, is consummately wicked or most egregiously foolish.

Nor is this by any means confined to the domestic manufacturer, commonly so called. It is clear that the producer in every department of labor, both southern and northern, whether he struggle to keep or to acquire the domestic, or to keep or acquire a foreign market, is bound to diminish the *cost* of production, *either in the nominal price of the material and labor employed, or in the “effectiveness” of the application of labor*, or yield the struggle. Can the producer of sugar, or of cotton, or of tobacco, or of hemp, or of flour, any more than the manufacturer of a yard of cotton or broadcloth, or a pound of iron, do this in a depreciated and depreciating currency? No! You might as soon expect the mercury to fall in a thermometer in the month of July, under a hot southwest wind, as the cost of production in any thing to fall in a country under such a system of periodical excitement, speculation and inflation.

But it is equally true that the workings of the system not only strike at the root of productive industry in the deep and irresistible manner above demonstrated; but that it likewise necessarily works injustice, and has withered, is withering, and will destroy the public morals. Can that system be just and moral which periodically *adulterates the currency by the alloy of depreciation*, and makes a wreck of private credit, of private fortune, and of private honor? which alternately appreciates and depreciates a man’s capital;

depreciates or appreciates his debts; enriches him to-day or beggars him to-morrow; and finally involves the whole community in all the consequences of the black frauds and dirty frauds of big paper and little paper, the legerdmain of financiering and the avaricious gambblings of greedy speculation? Impossible! Can the workings of that system be just or moral which "corners" a whole nation and the gallant members of this confederacy; which creates the supposed necessity of violating private and public faith, and of trampling the laws and the constitution of the country under foot, as was supposed to exist formerly in 1819-20-21, and as is supposed to exist now? No sir, no! But further, can that system be *constitutional* which works the destruction of productive industry; subverts the principles of justice; overturns the public morals and tramples upon the law, and therein defeats the great cardinal purposes of your general government, which, as above shown, are to establish justice, insure domestic tranquillity, and provide for the common defence and promote the general welfare? Incontestibly not! But the principles of our formulary of political faith shall prove it on the record of the parchment.

You will recollect it was shown in my second number, that the constitution of the United States had settled the question, "that the state governments have no jurisdiction whatever over the commerce of the country, with foreign nations nor among the states," nor over the instruments of that commerce, weights, measures and money—that the whole sovereign power over the commerce of the confederacy, and over its *indispensable instruments*, weights, measures, and money, which the states held and had exercised under the old articles of the confederation, had been yielded up "*ex vi termini*," with the abolition of *that* system or government, to the ONE government, created by the people for the great cardinal purposes first named in the Constitution, and for the successful execution of which, the people conferred upon that government certain enumerated powers, and the general grant of

power "to pass all laws necessary and proper," and imposed upon the state governments certain enumerated restrictions—that among the enumerated powers conferred upon the General Government, is the exclusive power to coin, that is to manufacture or *stamp* and "to regulate" the national measure of value; and that among the enumerated powers "forbidden to the States" is the right to "coin money, and to emit bills of credit." But says the zealous advocate of "state rights," the states neither "coin money" nor "emit bills of credit." Granted. But they coin bank notes. But, says another, bank notes are not money. Granted. But they are on their face a promissory, and of course, "credit" currency, and so designed to be. But, says a third, they are nevertheless neither technically nor historically "bills of credit." Granted. But they are *contracts* to pay money, equally with "bills of credit," and they are authorized by the states to circulate as money, and to substitute money or the national measure of value. Is not the distinction, therefore, between bank notes and "bills of credit," a "distinction without a difference?" But, says a fourth, bank notes are issued, not by the states, but by corporations, and the states have the exclusive right to grant charters of incorporation. Surely, not to do unconstitutional acts. That would be contrary to common sense; contrary to a fundamental aphorism in morals, and a well settled principle in law, "that what I cant do myself lawfully, I cant do by an agent or another."

But it is alleged that "bills of credit," technically and historically so called, and bank notes, are essentially different from each other. That the former (bills of credit) are "based upon the credit of a state; the latter, bank notes, are based on capital." That although the former are forbidden by the constitution to the states, the latter are not; *ergo* (therefore) the states have the "reserved sovereign right" to issue bank notes. But is it not clear that this allegation is itself based upon *two* false assumptions? First, Is it not perfectly clear on the face of every bank note that it is

based on *credit*? Is it not a *promise* to pay money? Is it not through faith (credit) in this promise that it lives, moves, and has its existence or circulation? Could it ever get out of the bank, were not *credit* in the *first* instance attached to its promise to pay? Will it not instantly return, when *discredited*, to seek the fulfilment of its promise? In fine, is not *credit* the very leverage of bank influence, and of *all* paper money?

But second: Was it not known to the enlightened "committee on Federal relations" of the South Carolina legislature, that bank notes are not only "bills of credit" on their *face*, and by *consequence*, as is above shown, but essentially and *intentionally* so in their inception? It *was* known to them; it *is* known to the whole commercial world, that two thirds of the circulation of a bank authorized by its charter of incorporation to issue three for one is *necessarily based on the credit*, good faith, and ultimate solvency of its debtors, and that if these fail, the bank suspends, and the holders of its *contract*, *credit currency*, lose the whole amount over and above its specie capital.\* Call you not this credit? But I am to be told it is not "*state credit*!" I am to be told it is the credit of *private* individuals! I am to be told that although the state governments are forbidden to erect *state* credit into public currency, they are not forbidden to erect PRIVATE credit into public currency. I am, in fine, to be told, that what the states cant do constitutionally by *themselves*, they *have* done and can do by another!!! But this is neither the morality of the Bible, nor of the Federal Constitution; nor is it common sense, nor "common law."

But to make the true issue and to place this tran-

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\* This is farther illustrated by the late report of the condition of the much vaunted safety fund banks of New York. The comptroller says, that in round numbers, their capital in specie was \$5,000,000; their circulation \$15,000,000, and their deposits \$17,000,000. The former is their means in hand. The two latter, \$32,000,000, their *immediate* responsibilities, is more than six for one!



scendently important matter beyond all cavil, the federal constitution itself shall furnish the illustration. In the same tenth section, in which the states are forbidden to "coin money," and to "emit bills of credit," they are forbidden to grant "letters of marque and reprisal." Will it be pretended that in time of war the state of Massachusetts could create a corporation and constitutionally endow it (not with the right "to grant letters of marque and reprisal," technically and historically, so called) but with a corporate privilege in the way of monopoly, and for the individual benefit of the corporators to make profits by cruising "*vi et armis*," or under some other "covin or device," which could not technically nor historically be called "letters of marque and reprisal?" No! public feeling and public sentiment every where would revolt at it? Would not the doings and proceedings of such a company on the ocean, although under the sovereign authority of Massachusetts, be regarded as piracy? Can the states do that by covin and device in relation to their ordained constitutional measure of value, the very sinew of war, and the pabulum of the "imposts and direct taxes," which the law of nations would not sanction in the state of Massachusetts, in the supposed case, but regard as an infraction of the Federal Constitution, and therefore piracy on the high seas? Can the state of Massachusetts in any way do that by a corporation in relation to this matter, which she could not do by herself? NO! Nor have the states the power to erect the private credit of corporations, (bank notes,) into public currency, any more than they have their own state credit, (or promises to pay,) into public currency. The power to do so, as was above remarked, belonged to another system of government, which was abolished by the adoption of the Federal Constitution, and the three banks then existing, were "*ipso facto*" nullified. And to this conclusion we are inevitably brought by the conclusive consideration that bank notes are either money or credit. If money—the states are forbidden to coin them. If credit, (promises to pay,) they are

forbidden to issue (emit) them as currency, to do the offices of money *independent* of the power "to regulate" it, conferred and *imposed* expressly on the General Government by the Federal Constitution.

But farther, to infer the power on the part of the states to bank from the constitutional prohibition only not "to make any thing but gold and silver coin a *tender* in the payment of debts, is equivalent to *that* construction which would give Massachusetts the power to endow her commercial marine, or any portion thereof, with the right to make money by driving an armed navigation and commerce on the ocean in time of war independent of Congress, *Provided* she should not to that end "issue letters of marque and reprisal." It is self evident to all that the privilege, however ingeniously devised and carefully guarded, would necessarily resolve itself into piratical privateering by *all* the states and therein violate the Federal Constitution and invade the war making power, exclusively delegated to Congress, as state banking has resolved itself into the emission (not of "post notes" only having a *definite* length of time to run by agreement) but into that which is worse, bank notes, which, through the illimitable suspension of specie payments already countenanced and habitual, are become *de facto depreciated* "bills of credit," substituting money, and therein invade the sovereign power of coining or the exclusive right confessedly conferred upon Congress to furnish this nation with a uniform measure of value, and with the exclusive right to "regulate" and govern it.

The just *inference*, therefore, from the prohibition to the states not to make any thing else but "gold and silver coin a tender in the payment of debts," is that the states are thereby *restricted* to that power *alone* in relation to the measure of value, and not that it implies the right to exercise *all other* power in relation to a paper medium except making it a "tender," no matter how inconsistent it may be proved to be in its workings in relation to the discharge of that very important duty imposed upon the states themselves touch-

ing the constitutional obligation to enforce the payment of debts in "gold and silver coin" only, and with the ends and purposes of the exclusive delegation to Congress of the right "to coin money and to regulate the value thereof and of foreign coin." The truth is, neither the people nor the states can rightfully retain or exercise any power under the ninth article of the amendments to the Federal Constitution, the exercise of which is either in terms ("*ex vi termini*,") or by necessity ("*ex neccessitate rei*") already delegated to the General Government or prohibited to them to exercise. This is deemed incontestible. But it is history in this country, and *now* of ocular demonstration, that the exercise on the part of the states of the independent, irresponsible power of banking has produced and is producing the following effects :

1. It has very much crippled if not annihilated in practice the constitutional purposes of the mint.

2. It has dissolved the Federal Union, *quo ad* the established national measures of value, in destroying the identity, uniformity and continuity of the monetary circulation of the confederacy.

3. It has destroyed not only the unity of the government of the measure of value contemplated by the Federal Constitution, by already substituting twenty-six governments or regulators thereof, but has broken the national circulation into 900 circulations infinitely diversified in every possible particular.

4. For and on account of the failure of *common* government, uniformity of regulation, concert of action and effective responsibility, there is not and never can be again, neither among the people nor the state banks themselves, confidence in the existing system nor in any other which shall be compounded of usurpation in its inception and depreciation in its action. It is therefore defunct except in its nakedness ; and it is the true interest and duty of banks and all to co-operate in its *reform*, and not in the resuscitation of this financial monster again to feed upon the "*success et sanguinem*" of the body politic and the patriotism

and morals of the country. It is a *rebel* against the constitution—wrong in principle and therefore never can be right in practice.

But this *practical* demonstration of the *unconstitutional workings of the system* should have been foreseen from the beginning.\* The claim that would give the states the *sovereign* right of furnishing a currency which they are forbidden by the Federal Constitution to make “a *tender*” in the discharge of debts or a *legal* instrument in the commercial transactions of the country, is an *absurdity* in theory. It is, as contended for, a sovereign right without *legitimate* end—a sovereign power without *purpose*, which can be *avowed or enforced*—a claim to do that which one part of the community have avowedly the right to thwart, and the other to favor and promote. In fine, it sets up the absurd doctrine that the exercise of a *sovereign* right or power can, in *any* case, depend for its execution upon the *option* of another, or the *volition* of individual citizens or subjects of the sovereign.

The sovereign power to furnish an instrument of commerce, viz: “the yard stick,” necessarily carries with it the power to *enforce* or *legalize* its employment, and to conclude all the transactions between individuals in which that *authenticated* instrument shall have been employed.

But the Federal Constitution says, in so many words, that no state shall “make any thing but gold and silver coins a tender in the payment of debts.” Is it not then *absurd* to set up the pretension of *sovereign* power without *legitimate end*? Is it not absurd to claim the *sovereign* right of furnishing a *paper* measure of

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\* It is a remarkable fact in the history of old *sober* plodding Virginia, that she resisted the innovation of State banking and *modern* paper money long since the writer was a boy, and until she was told by Wm. B. Giles, and some others, that she *too* must adopt the “*antagonistic*” states right policy, and have her *own* banks; otherwise “the banks of Maryland and North Carolina would heap their paper over her.” It was then she determined to set up for herself, and the Bank of Virginia was chartered.

value, by "engraving," or in any other way, without being able to *legalize or enforce its use* among the citizens or subjects of the government claiming the sovereign right of legislation in the premises? But is it not still more absurd in a confederacy of states under *one* common government, with *one* commerce and *one* money only for *that* commerce, which *all* are compelled to recognize as lawful, to institute an infinite variety which none can "regulate," either by statute at home among their *own* citizens, or by treaty with their sister states, to recognize its *functions* among *them*? Surely there cannot be two opinions upon this subject. "To form a more perfect union," it was necessary to establish *one* commerce and *one* money: to impair that union, is to divide and to weaken its commercial intercourse; and to destroy it altogether, is to create one money for *each* state, and a distinct money for the government. They will all become essentially and incurably *ANTAGONISTIC*, and from being financial and commercial, they will become political rivals. It was to prevent this very state of things which was *then* threatened, that the original depositories of the sovereign powers of this Union, conferred upon the General Government the *exclusive* power "to regulate commerce with foreign nations, and *among* the States, and with the Indian tribes;" and the power to "fix and determine the uniformity of weights and measures;" and "to coin money, regulate the value thereof and of foreign coins," reserving or excepting out of these general grants in relation to commerce and money but *two* powers, viz: the power to enact inspection laws, and to establish inspections, and the power to make gold and silver coin *only* a tender in the payment of debts. Will it be pretended then by the advocates for state rights, that the states "reserved" any thing else in relation to commerce and money? Will it be pretended that they can *make paper* money, seeing that they cannot enforce or legitimate its use—seeing that it is means without end—seeing that it is the exercise of power without *constitution-*

*al* purpose—seeing that they have reserved no other rights (in relation to commerce and money) than those *enumerated*—and lastly, seeing the ruinous effects above shewn of the usurpation and destruction of the UNITY OF GOVERNMENT contemplated for *these*, by independent irresponsible state banking. Surely not! To claim it therefore as a “reserved right,” is begging the question—it is *assuming* that which is denied “*in toto ceolo.*”

But this reserved sovereign right of *independent state* banking on the part of the states is rendered still more anomalous and absurd when its advocates yield its exercise to the restraining protective operation of either a national bank, or a bankrupt law passed by Congress to preserve “the constitutional currency,” which they are bound to protect. If the states have the right to bank, it is a *sovereign* right, and by the very terms is necessarily *exclusive* and *supreme in its sphere*; or it is not sovereign. This is clear and incontestible. Assuming then that the Congress of the U. States have the right and are in duty bound to take care of the “constitutional currency,” to preserve it uniform, and especially to prevent its becoming *merchandize*, and its *expulsion from the circulation and the substitution of depreciated state bank paper*, and to *this* end have the right and are in duty bound to pass “uniform laws of bankruptcy,” to embrace the “bankrupt banks,” as well as the bankrupt “traders;” is it not clear that the sovereign right claimed for the states to furnish *paper* money and the resulting sovereign right of *exclusive* regulation thereof, is incompatible with the assumed duties and rights of the General Government in the premises? Is it not perfectly clear that the sovereign rights of the one cannot harmonize either in theory or practice with the sovereign powers and duties of the other? And does not this view of the subject involve many of our leading statesmen in all the inexplicable mazes of inconsistency, if not contradiction, as the whole course of policy which has been and is still being pursued involves the best interests of the country in all the ruin-

ous consequences of such conflicting principles and empirical practice.

Mr. Clay and Mr. Webster, it is believed, concede the sovereign right of state banking, but would *govern* its exercise by and through a strong national bank. Mr. Van Buren, Mr. Wright, and Mr. Benton, concede the same sovereign right to the states, but denying the constitutionality of a national bank, claim the right of control by the General Government, by and through a bankrupt law. Whereas Mr. Clay of Alabama, and Mr. Calhoun of South Carolina, more consistent in the heresy of *independent irresponsible state banking*, have forgotten that the latter would formerly "unbank the banks," but *now* denies all power of interference whatever on the part of Congress with "this reserved sovereign right" of the states to *unmint the mints*.\*

But to illustrate still further the absurdity of this claim to interfere with the "measure" of value on the part of the states, founded on their reserved right to create *paper* money, by independent state banking, an example may be *taken from the works of the Supreme Being*, which are always consistent, or in harmony with each other. Money, in the discharge of its functions, as the medium of exchange and the instrument of commerce, has been figuratively, and with great propriety, denominated the "circulation." In the organization of the human body, the Supreme Being might have established a plurality of hearts to maintain and govern its

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\* The latter gentlemen are apprehensive that if a national bank charter is granted on the *principle* of right in Congress to *control* the action of the state banks; or a bankrupt law is passed avowedly as *means to the same end*, they will overturn the *principle* of state sovereignty in the premises, and settle the question of supremacy for ever. Did the 1,200,000 voters mean that? or did they strike blind to reproduce inflation and high paper prices—to increase the wages of labor, the expenses of living, the *costs* of *production*, excessive foreign importations and stock-jobbing, and shaving, and gambling speculations, in disordered credit and ultimate prostration? Surely not!

It would be madness sheer,  
To run the dirty muck *again*.

circulation. He might have placed one in the head, one in each foot, one in each hand, one in the abdomen, and one in the *thorax* or breast. But he did not do this, because it would have vastly encumbered the human body and *complicated* its economy. He did not choose to do this, because it would have been inconsistent with the workings of the beautiful system of sanguification and for the decarbonization of the blood by which the *homogeneity* and the *purification* of that important fluid are constantly maintained under the adopted system. He did not choose to do this because the *plurality* of government which would necessarily have resulted from the independent action of half dozen hearts would have constantly jeopardized the harmony and the balance of the circulation, producing irregularity in the distribution of the vital fluid and consequent congestions, collapses, and ultimate prostration. He therefore with equal wisdom, consistency, and simplicity, ordained that the CIRCULATION, being a *community interest*, in which all the members of the body corporal were deeply and equally concerned, should be an *unit*, both in the elaboration of the blood and in its government; and placed them under the control of *one* heart, and posted that heart in the *centre* of the body corporal. Whether the sage architects of the Federal Constitution had this sublime example in view when they framed that immortal instrument, we are not advised: but it is evident, if they had not the example of the Deity in their "minds' eye," that they acted with intuitive wisdom to the same end, when they placed the whole subject matter of commerce, and the great instrument of that commerce, *money*, (the "*succus et sanguinem*" of the body politic) under the *exclusive* control of the *central* government, the *heart* of this confederacy.

But, if at the close of the revolution of 1776, the confederacy had been entirely dissolved; if each of the thirteen states had erected itself into a distinct independent nation, with its own separate interests of commerce, of finance, of peace, and of war, then each state should have had, and would now have, its own peculiar com-



mercial regulations; its own distinct and independent monetary *circulation* and system of finance predicated thereon, and its own control of all questions of peace and of war. But such was not the issue of the glorious and successful contest for liberty. Such was not the advice of George Washington and the patriots who had periled their fortunes and their lives to purchase it: such was not the choice of the people of *that* Union which has been not unaptly compared to a "rope of sand." But sensible of its weakness, and of the source of their family discords: sensible that *their* union and liberty were inseparably united, and that that union could not be maintained without the establishment of a *common* government, which should be endowed with the supreme and exclusive administration of their great *community* interests, and especially of the interests of commerce, of money, of peace, and of war; they therefore ordained that for THESE PURPOSES they should be "ONE NATION," with *one* commerce, *one* money, *one* peace, *one* war, and *one* government for these. Shall *we* depart that great principle of UNITY in the great interest of the monetary *circulation*, and not feel that every thing is in chaos, and is going from bad to worse? Are we not at this very moment distracted and discredited in our commerce at home ("among the states") and paralyzed in our energies for war from abroad? And why? not because the General Government is in debt; for that was *all* paid: not because the nation is exhausted by war; for we have had more than twenty years of peace: not because our people are without enterprise, for that is proverbial: not because their soil is impoverished, or their climate changed; for they are not surpassed: not because their commerce is excluded the ocean; for that extends to the four quarters of the globe. No sir! no! But it is because their CIRCULATION—the representative of their resources, is poisoned by a depreciated credit currency, and broken into infinite fragments of corporation control under state authority, and through them the integrity of their national Union, and the energy of their national government already threatened with destruction.

Is it not therefore most consummately absurd that we should attempt to justify the policy of independent state banking, so repugnant as it is above proved to be to the *principle* of UNITY of government for the monetary circulation, *coincident* with an example so perfect and sublime and incorporated into our fundamental code of political law by men so wise and patriotic as were the framers of the Federal Constitution? Is it not preposterous that a power should be *assumed* for the states as a "reserved right," which is thus shown by *both* reason and experience to be theoretically wrong and practically ruinous, and which, under the *assumed* power to "engrave" bank notes, and to issue them "*adlibitum*," necessarily and in practice usurps the control "*de facto*" of the measure of value, and through it of the Treasury, and the commerce "*among* the states," which confessedly belong "*de jure*" to the Congress of the United States? \* Yet such is the history of the times, and the extraordi-

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\* Strictly speaking, it is perhaps not correct to say, as in the text, that the state governments do in fact govern the currency. It is history that the banks govern it, and that the state legislatures every where are cornered and yield obedience to the *imperious circumstances* which the *system* has created. Even General Jackson, who attempted to "*lasso*" them with his "Treasury Circular," found, after it was too late, that he had put down the "monster" to put up the many: and Mr. Van Buren has realized in the pet banks, if not in the monster, the truth of the moral of Franklin's fable of the cat and the hawk. The "Treasury Circular" and the "Sub Treasury" were in fact *executive* expedients to regain the control to the General Government of the *public Treasury*, which had been usurped by the State Banks through the "better currency;" and both General Jackson and Mr. Van Buren must *now* see that the *POLICY* which put down the monster and put up the many *necessarily* recognized the usurpation; and with the *political* power of the General Government over the measure of value (the *pabulum* of the imposts and "the sinews of war") it turned over the *public Treasury* to the safe keeping of the usurpers. But *now* it is proposed to return upon the political cycle—to *resuscitate* the "monster" and to put down the many! a pretty method of government! U. States *sovereignty* versus State *sovereignty*, and *vice versa*! Was this the philosophy of the Federal Constitution—of Washington, of Franklin, of Madison, of Hamilton?

nary character of the pretension which don't condescend to have its orthodoxy *even questioned*; but plumed with the self-righteous assumption that the states, (the sovereigns of the confederacy) have done "no wrong," would "cast the first stone" at the General Government, and then plead the antiquity of their usurpation and the malign effects of its operation to justify and to continue the heresy of state banking!!

It is assumed then as proved, that the people more than fifty years since took the entire control of the measure of value, equally with the measures of extension, of capacity, and of ponderosity, from the State governments, and placed them under the exclusive control of the Congress of the United States; and for the same reasons, viz: that they should be national, uniform and identical in circulation, value and character every where in the confederacy; and to secure this important matter in relation to the measure of value they not only delegated the power to Congress, but they forbid it to the States. It is therefore settled by the Constitution affirmatively and negatively.

Having incontestibly settled this part of the question, it may be farther asked, has the power to establish or introduce a contract or credit currency into our circulation, so as to create a "mixed circulation" either by "Treasury notes," or by "bills of credit," or by post notes, or by bank notes, or by due bills, been reserved to the people? No! There is no such expressed reservation. Has the power been expressly delegated to Congress? No! There is no such enumerated power conferred on that department of the Government. Is it an unnecessary and improper power for Congress to exercise? If so, then it is among the rights or powers "retained" by the people in the ninth section of the amendments of the Federal Constitution, which ordains "that the enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people." The question then, which squeezes the pith and marrow of this adjudicated and much controverted subject is, whether the power is a "neces-

sary and proper" power under the seventeenth number of the eighth section of the first article, which is evidently referred to in the tenth article of the amendments of the Federal Constitution, as containing a general grant of contingent powers limited by the words "necessary and proper," as was shown in the 2nd and 3rd numbers of these communications.

In answer therefore to the last interrogatory, it may be replied, that if we look to mere authority to settle this question of opinion, (for it is assuredly reduced to that,) it would seem that the grave discussions in 1791, under General Washington's administration; in 1816, under James Madison, and in the case of M'Culloch and the State of Maryland, under John Marshall, which settled this question at those periods in the affirmative, and in which these old, experienced, and profound patriots all concurred "*cum multis aliis*," ought to be abundantly sufficient. And so they are of the principle or question of *jurisdiction*. But the DETAILS in this matter; aye! there lies the point. It is exactly here under the seventeenth number of the eighth section of the first article, that the patriot may yet meet the patriot, and with unalloyed love of country, and of truth, shiver a lance in debate. It is here and exactly here, that we decide in practice, not in opinion only, the great question of constitutionality. *That* is here, as it always is in moral duty, based essentially in genuine utility. As *this* has no other sanction in the ordination of heaven than the good of man and the harmony of the creation, so *that* has no other sanction from the people under the seventeenth number of the eighth section of the first article of the Federal Constitution than "the general good and the common welfare." To establish justice, insure domestic tranquillity, provide for the common defence, and promote the general welfare, were as before shown, the great purposes of its adoption, and which those elected to public office swear to carry out to the "best of their knowledge and ability." Can the Congress of the United States then, under the seventeenth number of the eighth section of the first article (for that is their

only commission of authority upon this subject) establish a paper circulation or countenance that in the States which is essentially a system of depreciation and appreciation; which works adulteration in the currency; injustice to individuals; demoralization to the community, and destruction to productive industry? Can they establish a bank of circulation and "accommodation" any more than the States, which shall hold the cock that lets out and the sponge that absorbs the currency of the nation; that shall appreciate or depreciate my debts; appreciate or depreciate the wages of my labor; appreciate or depreciate the cost of my production; appreciate or depreciate the price of my property? No sir, no! It will be a base, cold-blooded *abuse* of power; a rank usurpation after all that we have seen, heard, felt, and now, if not heretofore, know upon this subject. Yes sir, "light has come into the world," and it remains to be proved whether "we love darkness rather than light," because our deeds are evil.\*

The duty therefore of the General Government and of the States upon this subject is now made plain by experience, and lies in a narrow compass, and that is, to restore the *UNITY* of the government of the measure of value contemplated by the Federal Constitution, and to

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\* After attempting to control the circulating medium of the country and *failing* to give to the nation a "better currency" as promised through independent State Banks *only*, the administration, with great *apparent* justice, is charged with an "escape," or dodging constitutional duty in falling back upon the *Sub Treasury* and disclaiming all right of control in the premises. But it is equally clear on the other hand that though the National Bank *asserts the right of control*, it does not *SETTLE* nor propose to settle this question of sovereign power which cannot be *concurrent*, and therefore must be exclusive or perpetually litigated. *That* institution is confessedly at best but a combatant for the power; and to be efficient it must concentrate *STRENGTH* enough to break down its opponents, (the State Banks) if needs be, and retain "the spoils of victory" in all time to come; or become again the proscribed victim of some fortunate soldier or "states right" patriot who either in high dudgeon or in holy zeal shall hallo "State rights!" "Down with the monster!" Then we shall be "in the midst of another revolution" to fight our late and present battles over again; and then it will be perceived, that the *projet* of a National Bank to settle this question of *fundamental law* was likewise with the *Sub Treasury* an "escape" from the *projet* hereinafter to be submitted.

countenance and originate no system of paper that shall work *depreciation*. *Such a system* of banking or paper as shall necessarily guarantee these in its principles of action, would be most eminently constitutional, not only because it would be the correlative of the mint, and peculiarly appropriate to the coining power, but indispensably "necessary and proper" to substitute the present with just such a system. It would "form a more perfect union, establish justice, provide for the common defence, and promote the general welfare—the present subverts all the great purposes for which the government was instituted, and is rapidly reducing the Union to its original elements and weakness. It is clear, therefore, that the present system ought either to be gradually abolished by a fundamental concurrent ordination of the states disclaiming all jurisdiction of the currency, and restoring its entire control to the General Government, (as was indubitably intended in 1789,) or that state banking shall be *legalized* and "regulated" by establishing, constitutionally,—

*First*, That each State shall have the right, when petitioned, to judge of the *local* wants of its citizens, and to that end the power to grant a *simple act of incorporation* to do banking business under the rules and regulations to be prescribed exclusively by Congress, which shall be *uniform* throughout the United States, and upon the principles *alone* of sound "commercial banking."

*Second*, That no corporation, or other bank, company, or institution, shall issue a note or any form of obligation to pay money or other obligations on time, nor under a less denomination than twenty dollars.

*Third*, That the circulation of each bank, &c., shall never exceed a certain ratio of paper to the actual metallic basis of each bank, paid in and *owned* by each bank.

*Fourth*, That the banks, &c., shall discount no other than real "business paper," and no paper having more than ninety days to run, and to be bona fide paid in at maturity.

*Fifth*, That the charter of each bank to be granted by the state legislatures, shall be forfeited ipso facto, upon the proof of violation of any one of the aforesaid regulations, without dispensation or remission, except to close business.

*Sixth*, The Congress of the United States should have the right to establish a commission in each state, with full power to examine each bank semi-annually, to the extent necessary to the entire fulfilment and execution of the above fundamental regulations, and to make report thereof to the legislature of each state, and to the Congress of the United States.

*Seventh*, The commission should have a power, by summary process, to enforce and make uniform and equal these fundamental regulations for the government of the currency, with power to enforce the forfeiture of each and every charter to that end.

*Eighth*, No state shall bank, or be the owner of bank stocks, without being subject to all the forfeitures and restrictions hereinbefore imposed for the government of the currency, and to be enforced in like manner by the bank commissioners.

*Ninth*, The states to exercise the right of incorporation, but no bank to loan or discount, upon the pain of forfeiture, without the certificate of qualification by the commissioners.

*Tenth*, To secure *uniformity and identity* of external characters as far as may be in the paper "*money*" of the United States, and thereby to cure the infinite diversity in these which now characterize it every where, and continually expose the people and the banks to growing and endless repetitions of fraud and forgery, the Congress of the United States should be endowed with the exclusive power to provide for that uniformity whensoever and in the manner they may deem most expedient for the interest of the banks and for that of the people.

*Eleventh*, Congress *alone* should have the right to authorize the suspension or resumption of specie payments, or to judge of the necessity and propriety of placing and

continuing the Nation on its credit. *Provided however*, it should be only during war, and *provided*, it should be simultaneous and universal ; and *provided*, it should be extended to all the people as well as all the banks. And *provided* farther, that from and after the passage of the General Bank law by Congress twelve months shall be given each state bank, or corporation bank, or company with banking privileges, to signify to the commissioner or commissioners of their respective states their assent or refusal to take action under it as hereinbefore provided on pain of forfeiture of their respective charters. *Provided* however, that the forfeiture should not be construed to deprive them of any right or power to liquidate, secure and bring to a close their banking business for which they should have not less than five years.

It will be perceived that either *Projet* provides for the UNITY of the government of the "measure of value," the first directly by the concurrent retirement of state usurpation ; the second by legalizing state banks, and establishing in the *fundamental law of the whole Union* the great *Principles* of their uniform and efficient regulation. These alternatives are irresistible, or the dissolution of this Union. They moreover disclose the remote cause of the present anarchy in the currency, in the failure of *common* government, and present the true issue in the present struggle, which is POWER, to be re-settled by agreement as it was thought to have been in 1789. It is lost to the general government and can't be re-captured from the states either by the *stratagem* of the *Sub-Treasury* or by the power of a National Bank.

But the administration does not *propose* to re-capture the power, but to stand aloof and permit the usurpation to cure itself by the "*Vis Medecatrix Naturae*" of the body politic. And the friends of a National Bank would adopt the principle of the Homoeopathic Doctors "*Simelia similibus Curanter* ;" forgetting that "*Similis Similem paret*,"\* is older philosophy and more true, physically, morally and politically. But it will be

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\* Tacitus.



perceived that the *projet* would strike at the *radix* of the mischief by bringing the central and *common* government to bear directly upon each bank to ensure the soundness of the metallic basis of each institution in its inception and at all times ; to limit and control the *ratio* of their discounts to their *own* capital, and strictly to confine these to business paper punctually paid in at sixty and ninety days, and never to permit the emission of a note of less denomination than twenty or fifty dollars.

In this way we should most unquestionably secure a "*Preventive remedy*" of the disorders in our currency. The banks, the great laboratories of credit, being themselves at *all* times restrained and regulated, will *necessarily* restrain and regulate individual credit, and not DESTROY it, as they now do by periodical inflation and collapse. The credit currency of the country (bank notes) will then be kept sound and without depreciation by keeping bank credits sound and without excess, by making them short and definite ; and the maintenance of a strict and *punctilious* regard of pecuniary obligations in all bank transactions will necessarily create and maintain, by a sort of education and example, a high tone standard of punctuality in the community at large in all individual transactions—and by the total inhibition of small paper and permanently fixing the *minimum* denomination of notes at not less than twenty or fifty dollars, the circulation between the "*consumers*" and the small dealers will necessarily be metallic; leaving ample facilities in large paper for the commercial operations and larger wants of the community, thereby promoting the convenience and soundness of the lesser circulation among the consumers, and improving the larger among the traders, and retaining in the *general* circulation as well as in the banks a wider metallic basis to sustain the paper at all times, whether in peace or in war.

But further : the *projet* provides for the *predisposition* to excess, whether that shall arise in the people or in the banks—by laying the *preventive foundation deep in the fundamental law of the land*. Nothing short of this *can* succeed. *That only can finally settle*

the question of power and bind the states and the people, or control in them "the untoward" disposition to excess. For it is unquestionably true, as Tooke and others have remarked, that the spirit of speculation and overtrading have produced excess of banking. But it is equally true that excess of banking has produced and will produce the spirit of speculation and overtrading—that they are alternately cause and effect, or act and react upon each other to overthrow private and *public* credit, and for that reason should be brought under the vigorous administration of Government. A sound and strict regulation of the banks will be a sound and wholesome administration of credit, private and public. When they become wild in their administration, it is then that the 'mad-water' of currency credit (bank notes,) the issues of which they hold, runs *all* wild, and depreciates the measure of value. But "*bona fide*" business transactions in notes and bills of sixty and ninety days, punctually paid at maturity, never *can* depreciate the currency of a country with no other than paper of a large denomination. That *rule* (and there is no other which can,) *necessarily* corrects and prevents excess of individual bank credits, and thereby the excess of paper or currency credit, consequent on them, and through which private overtrading and excessive speculation connect themselves with the public interest through the measure of value by depreciating it. These in all *banking* countries are correlatives. The excess of the one is the excess of the other. Whereas in countries in which no banks exist, and consequently no *credit currency*, the excesses of speculation, &c., are entirely *individual* in their responsibilities and consequences, and may therefore be left to regulate themselves. But not so in a banking country in which their connection with the *public* interest through the *public* currency is indissoluble. Hence from the *great and tempting facilities of banks, and the "elasticity of paper,"* as in compliment it has been called, *a central* and strict government of the paper money of this country "to regulate the value thereof," is much more imperious, yea, indispensable for the General Government to possess, than was deemed necessary for gold and silver.

It is true in a country *without* banks of circulation and accommodation, that when from the operations of FOREIGN trade, there shall be at any time an excessive importation of gold over and above the *legitimate wants of its circulation*, or of goods over and beyond the amount of the annual exports of the country to discharge, there *may* be in the one case *depreciation* of gold and silver more or less, and consequently, for the time being, a nominal increase of prices from the temporary *excess* of the metals : and from the other *appreciation* of gold and silver and consequent fall of prices from the temporary demands for the metals to supply the *deficit* of the exports. But it is clear that if there be no banks banking on deposits, that the degree of *depreciation* in the first case will only be *directly* as the quantity or amount of the *excess* of gold and silver which had been *imported* ; and in the second case, if there be no banks of circulation, the degree of appreciation in like manner will be only *directly* as the *quantity* or amount of the metals wanted for *exportation*. But in countries in which banks of *circulation and accommodation* exist, contractions and expansions will be in *direct* proportion to the *ratio* which the paper in circulation bears to the metals in the banks upon which discounts were predicated. If that be 3, 4, 5 or 10 to one, just to that extent must the domestic circulation of paper on the sum wanted in gold be contracted, to maintain the ratio required by the law of the land, and the law of currency. Hence it necessarily follows that the larger the ratio of paper to gold permitted by charters of incorporation, the greater the excess of contractions, and that banks banking on deposits already in excess from excessive importations of the metals must vastly increase the mischief. The *projet* therefore would for the facilities and advantages of “paper” to the mercantile class compromise or *dilute* the evil, and make the *ratio* of paper to metallic capital small—annul the whole practice of banking on deposits—confine their operations to their *own* capital and to “short paper” punctually discharged at maturity in *every* instance, and consequently to *merchants* or persons whose returns are or should be *quick*.

The *projet* therefore would not encourage the short sighted policy of making depreciation still more depreciated, by banking on deposits or *excessive* importations of gold and silver into the country : nor would it through the "elasticity of paper" (accommodation discounts) maintain and extend the operation of the very *causes* (overtrading and excessive importations) which should at any time create the demand for the exportation of the metals to pay the deficit which overtrading and excess of importations had created : but by the *RULE* of its action would sink the level of the operations of *all* the banks in *such* a crisis to the scale or *ratio* prescribed by the General Bank law of Congress, and thereby accommodate *them* to the laws of trade, disclaiming the empyrical effort to accommodate the unyielding laws of commerce to banking by the "elasticity of paper," or any other *elastic* scheme, to *maintain* or *work* depreciation, speculation and overtrading.

Much greater reliance may in fact be placed on the *PREVENTIVE* power of the *projet* as above shown, than on the *curative* virtues of the "elastic" remedy which attempts to substitute *excess of paper for specie already in excess ; or excess of DOMESTIC bank credit in paper already depreciated, for excess of foreign commercial credit already pledged*, which knows no bounds till reaction comes. The one would maintain and greatly extend the evil *effects* of the over importation of gold and silver to circulate in the country ; the other the evil *CAUSES* of the over importation of foreign goods to be consumed in the country. The one *increases* the depreciation in the currency, which would otherwise be quickly raised in value to the level of the mundane circulation by the free exportation of the *relative* excess of the metals which *can* go abroad to adjust the level ; the other "to *stave off* contraction," would *continue* the depreciation by paper which *can't* go abroad either to restore the level or to balance the account raised by the very excess which had caused the necessity for the exportation, and thereby protracts and increases the malady for the peculiar benefit of the shavers and brokers, who

deal in the muddy water of a muddy currency, which the laws of trade would otherwise quickly purify, by restoring the true level of the measure of value at home to the level of the measure of value abroad.

But the *projet* involves not a question of pounds, shillings and pence only, but it presents the alternatives to this confederacy of Union or Disunion—order or anarchy; strength or weakness; of justice, integrity, punctuality, morality and law, and the periodical overthrow and final destruction of all these by the present system, if system it should be called. Yes sir! next to “the confusion of tongues” which separated mankind at the destruction of the “tower of Babel” may be ranked the efficiency of 900 circulations, under twenty-six Governments, independent of each other, to dissolve our union—to produce and maintain anarchy by working chaos in our monetary circulation. National weakness by destroying through their representative the cohesion and unity of our national resources, and universal corruption among the people by the irresistible drivings and action and reaction, and inflations, and prostrations, which it perpetually generates in the current and course of our business; thereby defying all calculation and discretion, and putting to wreck or in imminent peril all integrity and all honor.

Assuredly, then, it is the *true* interest of the state governments and of the state banks and all concerned, to lay aside all party and ambitious feelings, and to bring to the consideration of this subject the enlightened views and heaven-born dispositions of 1789. Yes sir, the same deep and abiding motives, should *now* actuate all, as did our forefathers when they *reformed* the old articles of the confederation into our present inimitable system of government, the great principle of which in relation to the measure of value has been unwittingly deported in an evil hour, and the *consequences* of which we now feel; at once demonstrating its superlative wisdom, and our highest duty and interest—TO RESTORE IT.

In conclusion, the writer would beg leave to add (as he hopes must already appear,) that he is no enemy of

credit. Far, very far from it. On the contrary, he regards it as the great badge of modern civilization ; an irresistible leverage in its moral power. Like honor, chastity, liberty, and religion, it marks the very highest grade of civilization. But like these it should be guarded as the "vestal fire." Like these he would protect it against the seduction of scoundrels, the subtle conspiracies of fraud, and the dangerous intoxicating excitement and corrupting influence of great and long continued commercial prosperity.

Those who advocate the *present* system, of depreciation, are the *real* enemies of credit, because they would, by the workings of their system as above demonstrated, retrograde society towards barbarity, and just in that proportion destroy credit by uprooting its true foundations ; by corrupting the public morals ; annihilating public and private confidence ; and by exposing society, through its ABUSES, to the ravages of the cold, calculating and unrelenting harpies and vampires which it has generated, and who are now feeding upon the very vitals and sucking the blood of the body politic.\*

But, sir, there is another malign influence that has crept into our councils and politics, and finally threatens to invade our "kneading troughs" and fire-sides. It is the disturbing subject of Abolition—that fanatical impulse that seeks to become the modern crusade—not to the holy land to wrest the sepulchre from the sacrilegious hands of the infidels—not to restore the denationalized Jew to Palestine, the donation of his God—not to restore the Ethiopian, "the child of the sun," to the land of his forefathers, to set up self government for himself. No ! that would be noble and sublime. But it is simply to

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\* In illustration of the superlatively malignant influence of our present system of paper and credit, the author has often compared its *indiscriminate* ravages to that of the well known "milk sickness" of the west ; the subtle poison of which is said to be so intense and all-pervading that it penetrates the flesh of its victims so as to poison all the dogs and buzzards which feed on it, as that of our currency has many of the brokers and shavers who would fatten on its disorders and on the *merchandize* of money.

turn the poor ignorant negro loose—yes, simply loose, amidst all the vices and diseases and temptations, and shrewdness and tact of superior civilization (or cunning among the whites if you please,) without any of its moral and intellectual guarantees to protect him—to endow him with the privilege of self-government without the indispensable preparation to exercise it with benefit to himself or discretion towards others—to make him a freeman among us, and not a citizen—and if a citizen, not a companion—to deprive him of all the conservative influences of property and the identifications of interest with the community in which he lives, and which it procures for him, for the vagrant liberty of a disfranchised, dishonored “*free negro*.”

But the abolitionist, in the pursuit of an abstraction, the “air line” of theorists, is regardless of consequences—he accommodates not his conduct to circumstances—he can’t stoop or stop to look down the chain of cause and effect to considerations of real utility to the black man himself. He opposes the enlarged and enlightened philanthropy which would send the *elite* of the free negroes of America to Africa, to form their own society and government---to diffuse civilization there and to arrest the slave trade. To accomplish the simple purpose of emancipation, he would turn the negroes loose, paupers in Maryland and Virginia, or favor their escape to the howling, icy blasts of Canada and the Polar regions. To carry out his favorite dogma, which he don’t understand, of doing unto others as ye would that they shall do unto him, he puts forth a determined, if not deadly opposition, to the great reforming agencies of modern civilization (agriculture and commerce,) which, having reclaimed the negro from barbarity and idolatry and inducted him into many of the elements of the arts and sciences of the Nineteenth Century, is now peaceably and slowly, and, for that very reason, safely and beneficially to all concerned, bearing him towards that climate on this continent, most congenial to his physical constitution, in which the sugar cane, the banana, the rice, the plantain and the black-man flourish, and the white-

man pines, enervates and dies. Are the results dubious? Is not nature always wise and always beneficent in her great workings and ultimate designs? Shall *we* "with microscopic eye," presume to scan and to thwart those designs? Shall we find fault "with partial evil" which may be "universal good?" Shall we threaten to dissolve this union, and propose to violate the fundamental law of the land, to carry out our visionary schemes of "human perfectability" which for aught our poor, contracted understandings can comprehend, may be in opposition to the high behest of Heaven, or to the natural and, for that very reason, salutary operation of cause and effect. No! But the Abolitionist *does* propose to do all this in violation of the Federal Constitution, which I propose to prove in our next and last number, if it is not incompatible with the political tactics of the day to discuss *this* subject at *this* time.

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#### NO. V.

MR. JOHN C. WRIGHT—*Sir* :—In the conclusion of our last number we touched the subject of Abolition so far as to show, in part, that it is a revolutionist and not a reformist—that it is a theoretical fanatic, if not a wicked knave—that it is halloing liberty! the rights of man! slaveocracy! and emancipation under impulse, and under the sanction of the Jesuitical doctrine that "the end justifies the means." It was hinted that its zeal cannot be holy, because "it is without knowledge"—that it cannot be discreet, because it does not unite "the wisdom of the serpent with the innocence of the dove," but in pursuit of the "air line" of an abstraction, it would do the negro much mischief; and to build up the babel of party to produce "a confusion of tongues" in the confederacy, it would thwart the efforts of the enlightened patriotic philanthropist, who would christianize and civilize the savage negro in Africa, through the all-powerful influence of the "*elite*" of the negroes of America. And lastly, it was succinctly stated, that it would coun-



teract, if it were possible, the determinations of agriculture, of commerce, of climate, and the constantly increasing pressure of the free white labor in the north, which is slowly, and for that very reason, quietly and beneficially for all concerned, drawing off and pressing forward the slave labor of the more northern of the slave states towards the same parallels of latitude on this continent, with those of the black-man on the continent of Africa ; to be ultimately freed in the climate ordained for him by heaven, from time immemorial,\* in which the white-man deteriorates and dies, and the negro flourishes. And to accomplish all this, the abolitionist would suddenly revolutionize the habits, views and feelings of the people—unsettle the rights of property—"kick the

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\* The *identity* of the human species has never been proved except by hypothesis. The negative is established by the senses and by history, and the "onus" of the affirmative lies upon those who believe it, to prove by facts that the "leopard can change his spots, or the Ethiopian his skin," by paint, climate, or any thing else short of disease. He may change his climate as the leopard and lion and live ; but it is well known to those thoroughly acquainted with the habits of all the three animals, that they are physically capacitated to flourish in the greatest perfection in the low hot latitudes. There the *beaux ideal* of a negro, leopard, and lion, has been always found. Hence the *exodus* of the former towards the climate on this continent, most congenial to his nature, should be favored and not thwarted. That would be enlightened philanthropy—it would be working with nature, agriculture, commerce and climate, and not against them *all*. They would mature their work of ultimate emancipation slowly, and for the benefit of the negro. The abolitionist would effect it quickly, to gratify his own self righteousness and ambitious aspirations. The one is multiplying and will finally free and ennoble the negro in the climate to which he belongs. The other would throw him loose, check his population, then reduce it, and finally destroy the black-man, as the red-man has been destroyed, and for the same reason, which the writer would leave to the sagacity of the abolitionist to find out. But it is a most remarkable fact illustrative of the irresistible workings of nature, that even the abolitionist in making the property in slaves *insecure* in the more northern slave states, is blindly co-operating with the great agencies above enumerated, in pressing forward the negro to the garden of his Eden, on this continent. It is evident that the determination of slavery in the United States is from the North-east to the South-west.

political balance" of this Union—violate the compromise of the constitution, and strike from the parchment some of its incontestible principles. This last it is now our intention to prove.

And first of all, it may be remarked, that it is history that at the time of the adoption of the Federal Constitution, most if not all of the thirteen States held negroes as slave property—that at the time of its adoption they were then being imported from Africa. But being regarded as men, though held as property, that importation was discountenanced. Hence the provision of the first number of the ninth section of the first article, "that the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding \$10 for each person." Now it is clear that this prohibition relates entirely to the foreign commerce in slaves, and contains two restrictions upon the general commercial power which had been delegated exclusively to Congress in the third number of the eighth section, or rather is meant to restrict the general grant, contained in the seventeenth number of the same section, of all powers necessary and proper to carry the third number into full execution. Nor can the word migration, which opens the section, mistify the conclusion; for the alternative "or" and the adjective "such," before the word "importation" in the *conclusion* of the first number of the ninth section, incontestibly show that migration and importation are used synonymously in the section. Nor can the power delegated in the third article to regulate commerce "amongst the states," be construed to embarrass, cripple or destroy the commerce in slave property any more than in any other property.

But this important matter is not left to construction alone. *Negroes are property.* Held so at the time of the adoption of the instrument, and recognized as such in the right of the owner to reclamation, under the third number of the second section of the fourth article. The law therefore that would tax this property exclusively,

in the course of transportation, would be penal and odious, and the discrimination manifestly unjust, and therefore unconstitutional; for the fifth number of the ninth section of the first article ordains that "no tax or duty shall be laid on articles exported from any state, nor preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another." And the first number of the second section of the fourth article recognizes the great fundamental principle that makes us all equally alike citizens of the United States, by equalizing its protection in ordaining "that the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

It is clear, then, that Congress have no other power over this subject in the Union at large, than that which they have already exercised. But I am to be told that they have all sorts of power, in the District of Columbia; that they are a complete legislature with plenary powers, and that they can abolish slavery there. And so they can if their legislative power is unlimited. But will it be pretended by the most confident in this opinion, that they are without the limitations and prohibitions, and reservations of the Federal Constitution, in the ten miles square? That would be absurd. But it is pertinaciously contended that the words of the bond are, that Congress shall have "exclusive legislation in all cases whatsoever over such District." Surely it must be exclusive of every other, for that was intended; but surely it was equally intended that their legislation should be within the limitations, prohibitions and reservations of their power of attorney of Government—the Federal Constitution. This is incontestible. But the general grant of the power of exclusive legislation in all cases whatsoever, over such District, is not only limited by the enumeration of powers, and reservation of powers which Congress cannot, under any circumstances, transcend or violate, either in the District or any where else, but the special power, if you please, given to Congress of "exclusive legislation in all cases whatsoever," for the District of Columbia, delegated by the sixteenth

number of the eighth section of the first article of the Federal Constitution, is necessarily subjected to the limitations and restrictions of the very next article, the seventeenth, to the right to pass all laws "necessary and proper" to carry into effect the foregoing and all other powers, vested by the Constitution in the Government of the United States, or in any department or office thereof.

Assuming then that the Congress of the United States are not bound under the fifth article of the amendments of the Federal Constitution to respect the rights of property, which ordains "that no person shall be deprived of life, liberty, or property, without due process of law:" nor shall private property be taken for public use without just compensation, yet the "*onus probandi*" lies upon the abolitionists to prove that the law abolishing slavery in the District of Columbia is "*necessary*" to the safety and comfort of the Executive; is "*necessary*" to the prompt and wise discharge of the legislative functions by Congress; is "*necessary*" to the safety of the public property in the District of Columbia, or is "*necessary*" to secure the tranquillity of the citizens of the District or of the adjacent states of Maryland and Virginia, or to subserve *their* sense of moral and political propriety. Otherwise it is self-evident they can't begin to make out a case of necessity, and much less of propriety, for the legislative interposition of Congress, and especially so long as the people of the District and the people of Maryland and the people of Virginia *are opposed to it*. No! It is incontestible that Congress have no power to pass any other laws than such as shall be "necessary and proper." In the practical administration of the Government, it is true they are made, as they necessarily must be, the judges of that necessity and propriety, but they are judges on oath, and responsible to the people for the faithful discharge of that contingent and ultimate legislative authority which, like the judicial, must be lodged somewhere, and like all other discretionary power, is in "abeyance" of the wants and circumstances which make it "necessary and proper," or justify its exercise as was

precisely illustrated in the purchase of Louisiana in 1803.

That the necessity and the propriety of that great measure of Mr. Jefferson's administration was foreseen or even felt (if it existed at all) in 1789, when the Federal Constitution was adopted, no one will assert. That its necessity and propriety came to exist at the time the purchase was made, all but the blind and the infatuated must now see and understand. Nor at the time it was made was it thought "indispensable" or absolutely "necessary" to purchase the country extending from the "Balize to the mouth of Columbia river, or from the 42d to the 49th degree of north latitude on the Pacific Ocean." But that statesman, who certainly did not split hairs in every thing, knew that the phrase "indispensably necessary," now sought to be introduced by some of his pretended followers, is unknown to the Federal Constitution; and that the phrase "absolutely necessary" is used only once in the second number of the tenth section of the first article, and that in restriction of state power. He further knew that the Island of Orleans alone was worth more than \$15,000,000 to this nation, not in pounds, shillings, and pence only, but morally and politically. But he was told by that master spirit of his age, Napoleon Buonaparte, that he must purchase all Louisiana or none. Mr. Jefferson forthwith forgot the sophisms of the restrictionist who would tie the general government down to special enumerated powers *alone*, till he should get into office, and the hair splitting distinctions of the metaphysical demagogue in Congress, who would consume a whole day of the nation's time in graduating the scale of political necessities, to demonstrate to his district in Virginia that he belongs to the school of '98, and with the moral courage that becomes a patriot and statesman, he seized the crisis, and expelled from his cabinet the hide-bound doctrines of party, to bless his country and to immortalize his name.

To apply this illustration, then, to the subject of abolition, who will say that the time may not arrive when we shall see all Maryland, Virginia, and the District, pe-

tioning Congress to abolish slavery in the ten miles square? "In the fullness of time" this may happen, and under the beneficent influence of the great moral and reforming agencies above adverted to, (agriculture and commerce,) which operate not by the torch or the faggot, or the asperities of political party, which are always in a *hurry*, but throwing their benign influences through time, which ripens, and mellows, and prepares all, they accommodate all. The seventeenth number of the eighth section of the first article, therefore, which now very correctly limits the power of Congress, under *existing circumstances*, upon this subject, may *then* become, with the concurrence of all, the commission of its authority to do the very act which it does not now sanction, because its necessity and propriety, for any one of the purposes above enumerated, cannot now be shown to exist.

In conclusion, therefore, the writer would beg leave to remark, that although the denunciation of federalism, and the political proscriptions and distractions of the last forty years in this Union, have mainly sprung from the seventeenth number of the eighth section of the first article of the Federal Constitution, yet he nevertheless regards it as the most valuable article of the whole instrument, because it gives the true value to every other if wisely and independently and patriotically fulfilled. As observed in the first numbers, it makes the government practical—it makes the federal government a government of choice—of DISCRETION; ay, an *intellectual government*. It throws the field of debate, of discussion, wide open, and invites the patriotic orator of the Union to meet his brother and nobly break a lance in the exposition and vindication of the *true* policy of his country. But it was never expected to be the "*punctum saliens morborum*" of the body politic. It was never expected to become the diverging point at which was to commence the dissolution of this Union. It was never expected that its highest compliment and commission of free agency would bring it under the degrading despotism of party, to rob it of all utility. Nor was it

foreseen that it would become the fertile source of political proscription, for "*opinion's sake*," and much less that these would be ripened into *popular and state* denunciation of the man who should dare to advocate the legitimate rights of the Federal power, except under the device of some *humbug* name to substitute "Federalist," a cognomen once courted by Madison, Hamilton and Jay, and approved by all. No! But it has been, it is, and it will be the fact, till our political forces will *all* become "*centrifugal*"—Congress, a dissipated cabal, speaking against time and for money, and the President a time serving demagogue to dispense "the loaves and fishes" of executive patronage to his "State rights" friends, who will put him into office and keep him there because of his thorough going "States right principles." *Then* your General Government will become an expensive, useless, empty pageant, and your *Union* will have (if it exist at all) "a name to live when it is dead."\*

But sir, you will not infer from these last observations, nor from any others contained in the above numbers, that the writer is an enemy of "State rights." Far, very far from it. On the contrary he wishes it to be most distinctly understood that he cherishes neither personal nor partizan feelings; that in politics he has no private griefs to soothe or political hatreds to gratify. Nor has he any *political* aspirations; otherwise he *too* might go in for "state rights"—he *too* might be disposed to "swim with the tide and trample on the fallen." But

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\* The States through the usurped right to erect private and state credit into public currency, have seized the control of the money making power, and have *discredited* themselves. Through excess of jealousy of the central power, and the dominant influence of the States in Congress, they have constantly hallooed consolidation! and for an economical administration of the General Government, and as constantly neglected the army and the navy, and the proper defences of the country. Hence it will follow as *consequences* that they will ultimately seize the public domain and the public revenues to prop their dishonored credit, and to prosecute *State* enterprises; and the war making power to protect their defenceless firesides. So true was the sage remark "that revolutions never go back."

being disposed to "view with equal eye a hero perish or a sparrow fall," he would "give unto Cæsar that which is Cæsar's, and unto God that which is his." Yes sir! He don't claim for the General Government *illimitable means to accomplish enumerated ends*. That would be both jesuitical and absurd. But the *end* being given—*specified*—the means to accomplish it must be "necessary *and* proper," in which is included, as essential to its constitutionality, beneficence and utility in its influences—conformity to the letter of the constitution, and fitness as *means* to accomplish the legitimate purpose. If therefore the *end* is not given, or the particular mean is *forbidden*, it is USURPATION to assume them; but if the mean employed to accomplish a legitimate end is unnecessary, inexpedient, improper, unfit, *unjust, immoral*, it is an ABUSE of the *discretionary* power given to Congress "to pass all laws necessary and proper;" inasmuch as *that* is the *condition* of this general grant of contingent powers.

That Congress is in the *first* instance necessarily made the judge of this conformity of their measures to the requisitions of the seventeenth number of the eighth section of the first article of the Constitution, there can be no doubt. But this was, and still is, and always must be, unavoidable, if the government shall be *practical*. But it results from the organization of the government and from the representative principle particularly, that the ultimate appeal in all these questions is to the people who are *assumed* to be capable of appreciating both *theoretical* error and *practical* abuse, and to whom the Federal Constitution especially leaves this last very important matter which appertains to the practice and the policy of the government. Questions therefore in relation to these are always open to enquiry and discussion, and hence it is always "in order" to make the issue of *necessity* and *propriety* with any measure of Congress, till practical demonstration and the human understanding have finally settled the questions of fitness and *genuine* utility.

But the States right party, of which I claim to be one,



(for "we are all federalists and all republicans") whilst they question this doctrine "of necessary and proper powers," which are of necessity *discretionary and contingent*, are compelled to concede the doctrine of "incidental and implied powers," as if *they* were not likewise matters of opinion and of sound discretion---as if *they* were not equally open to discussion and inquiry---as if a measure or means could, in the proper acceptation of the terms, be necessary *and* proper, and not be incidental and implied. But the words "necessary *and* proper" require *more*. It is not enough that a measure be incidental and implied, viz: "necessary" as a mean to a particular end, but it must be "proper"—it must be beneficent—it must be politic—it must be discreet. In fine, genuine utility, as above observed, must mark it, and practice can *alone* demonstrate its *true* character on many occasions in public as is often the case in private life. The construction contended for, therefore, would in practice be more restrictive and salutary than the impracticable abstractions of the "restrictionists," and more satisfactory, because more *conclusive* in resolving the *whole* policy of the government in its *practical administration*, where it cannot be "weighed in a balance or measured by a two foot rule," into the only infallible test of constitutionality in *these cases*, viz: its *beneficence*, and *this* into its conformity to the *philosophy* which dictated the moral aphorism that "honesty is the best policy," and which prompted the Apostle to exclaim, "God forbid that we should do evil that good may come of it." No! The doctrine contended for would sanction no measures however specious and alluring as means to ends which in practice should *work* fraud, or usurpation, or oppression, or gambling speculation, or extravagance, or inflated temporary prosperity, or even the "greatest good to the greatest number," by sacrificing the RIGHTS of one part of a community for the exclusive benefit of another, or of a feeble dependent minority to the rapacious Moloch of triumphant party.

If, for example, Congress would touch the Tariff, it should not be for an *eleemosynary* purpose; it

should not be to dispense political or pecuniary benefits; it should not be to favor the rich, or the poor, the North or the South, the East or the West, the majority or the minority, at the expense of either, but for *necessary* revenue, and to make it "*uniform*;" combining as near as may be *justice* always and to *all* classes, with *policy* in its adjustment.

If Congress would legislate for the District of Columbia "in all cases whatsoever," they should remember that their commission of authority is in *all* cases to pass such laws *only* as shall be "necessary and proper," as above interpreted.

If Congress would *erect public or private credit* into *public currency*, they should first of all enquire whether the *latter* can be done, seeing that it is history that the *former* was denied by the convention that framed the Federal Constitution. If, however, it should be deemed "necessary and proper," under *existing circumstances*, to touch it in order to discharge the duty of regulating and maintaining sound and uniform "the measure of value," or of REGAINING from the States its legitimate control, they should remember that "paper money," though it be like religion, the great leverage and badge of modern civilization, is likewise, in its ABUSES, the great *modern fraud* and *handy instrument of legerdemain* in these "latter days,"—that CREDIT, like religion, is powerful for evil as well as for good, and that a CREDIT ESTABLISHMENT may, in the end, be as injurious to *true* credit, and the real interests of commerce and agriculture, as a "church establishment" is *now* known to be to true piety and the extension of genuine Christianity. If, therefore, we must have paper money, the *projet* would recognize no other but sound COMMERCIAL banking; it would create no monopoly; it would make no odious discriminations to excite the jealousy and the rivalry of states, and mercantile cupidity of competing cities, but it would "regulate" and govern *all alike*, and by ONE law, *embodying therein the well established principles of sound banking*.

In conclusion, then, the following summing up would appear to be justified from the premises.

*First.* That a government of abstractions *only*, if it were possible in this country and age of invincible enterprise and eternal change, would be an absurdity. Under *such* a government, faithfully administered, there would, of course, be neither *usurpation* nor *abuse*; but there would nevertheless and most assuredly be a great deal of very foolish, bad government, and *no responsibility*. Yet such is the THEORY of the doctrine of the "restrictionists," if in reality there be any such, except in profession.

*Second.* The great philosophical abstraction of the Federal Constitution would confine, and *does* confine, the General Government to the *exclusive* administration (with some few enumerated exceptions) of certain great *community* or general interests of the confederacy. These constitute the "cardinal points" in our *political* system, and indicate most beautifully the *sphere* of its action. *These* are "enumerated"—these *were* laid down on the political chart, but in steering the ship of State, it was *foreseen* that although arbitrary political principles should govern its construction, and certain political points should be distinctly designated as objects to be invariably and *alone* steered for, which, like the physical, *must* be fixed; yet that it would be indispensably necessary to the success of the voyage, that the experienced, trust-worthy pilots should be so far "*latitudinarian*" in the discharge of the important duties confided to them, as to exercise their best judgment, intelligence and skill in working it to its "ends." Hence,

*Third,* The great MORAL of the Federal Constitution was instituted, by which *free agency*, *discretion*, and *responsibility*, were enlisted to preside over the *practical* administration of the government which was then being erected to liberty and the rights of man. This is found in the seventeenth number of the eighth section of the first article of the Constitution, which rule, like Holy writ, is not so much inhibitory of the

commission of *each* individual political sin or *abuse* of *free agency*, as a system or SPIRIT OF RULES with which all political abuse is incompatible.

*Fourth.* It therefore clearly results, as was before stated, that the Federal Government is, in part, a government of fundamental written rules, and in part a government of policy, or discretion, or choice; and that within these written rules, and the *moral* or spirit of its commission, the Federal Government is as it is declared to be, supreme, and consequently *exclusive*.

*Fifth.* But it equally results that beyond these, it is powerless, and that the *residuary* mass of sovereign power "is reserved to the States or to the people."

*Sixth.* If the above positions be sound, it clearly results, farther, that though there may be *concurrent* jurisdiction where it is so *declared*; yet there never can be *constitutional* conflicts of jurisdiction between the General Government and the States, seeing the one is declared to be supreme and *exclusive* in the sphere of its action, "the laws and constitution of any state to the contrary notwithstanding." Where they are *concurrent*, they move in *parallel* lines, which *never* can cross so long as they are *straight*. When they conflict they are no longer concurrent, and for that reason the state jurisdiction is *necessarily* void if the General Government is in line. Hence,

*Seventh.* It finally results that as the States, in the delegation of the war making power, "reserved" or "retained" no other *constitutional* rights of war, but the rights "to suppress insurrection" and "to repel invasion;" and in the commercial power no other rights but the power to pass inspection laws and to establish inspections; and in the *money* power and the power over *weights and measures*, no other rights, but the power to make gold and silver coin *only* a tender in the payment of debts, all the rest being absolutely delegated to Congress, "they belong of right to the General Government." *Independent state and corporation banking*, being in conflict, as was above demonstrated, both in *theory* and *practice*, with this *exclu-*

*sive* money and commercial power, are therefore unconstitutional. Hence it was concluded—

*Eighth.* That although *credit* has existed, will exist, and *should* be cherished in every community of laws and among all honorable men in their PRIVATE RELATIONS as citizens or subjects, in which it should be left perfectly free to govern or regulate itself, reserving to the States of this Confederacy the right to define and enforce the obligation of contracts\* which they are forbidden by the Federal Constitution to “im-*pair*,” yet the moment they would change this *relation* from private to *public*—the moment they would change it from individuals to the State—the moment they would convert this *moral* capital (individual credit) into PUBLIC CURRENCY, from that moment it ceases to be *subject*, or *citizen*, and would become *sovereign*; from that moment it eschews government, and aspires to *govern*, because, having entangled itself with the *public business* and *interest*, and *identified* itself with the *political* institutions of the coun-

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\* It is self-evident in every contract on time, or on demand, for a particular amount of a specified thing, that the elements of the obligation consist of three specifications, viz. First, the time in which it is to be fulfilled: second, the *measure* or *amount* stipulated for: and third, the *quality* or *subject* matter contracted for. Can any one of these elements be *suspended*, or changed, or modified, by the legislative “*device*” of “changing the remedy,” without impairing the obligation of the contract which is compounded of *all* three? Can “the right to change the remedy” be made to *operate retrospectively*? Can the legislature create a *legal inability* on the part of a creditor to collect his debt by law at the particular time stipulated for, or in one or five years thereafter, without depriving him of the rights and facilities which the law of the land vested in him at the *time* the contract was made? The question, then, whether the legislature can pass a “*retrospective law*,” depriving me of the legal rights and facilities I enjoyed or held “*pari passu*,” with the contract, and in faith of which it was made, is equivalent to the enquiry, whether it is constitutional or competent to them to pass an *unjust law*? yet “*replevin laws*,” and “*stop laws*,” and “*suspension bank laws*,” are rife in the land, and the direct descendants of the *sire* usurpation commented on in the text, and amply illustrative of the truth of the latin sentiment formerly quoted, “*Similis, Similem Pareat*.”

try, (*money*) it *assumes* the sovereignty, and from being a fraudulent counterfeit of the legitimate instrument of commerce and just measure of value through legislative usurpation, and the *alloy* of depreciation, it becomes either an *involuntary* or an impudent *rebel* against the jurisdiction of the established Government and the law of the land. Hence it was contended that if we *must* have banks, they should be *legitimated*—the present anarchial system should be *reformed*, and the PRINCIPLES of its future government well defined and deeply laid in the *fundamental* code.\*

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\* If by "*Free Banking*" be meant banking without special regulation by law, then would every man make *paper* money from the boot-black to the *millionaire*, and destroy the fixed *constitutional* measure of value by the indefinite and fluctuating measure of "*shin* plasters." But if it mean banking under the regulation of *municipal* law in lieu of Acts of Incorporation, then surely it is not *free* banking; and if the *premises* be true, Congress *alone* have the exclusive sovereign right (as the *projet* above submitted provides) to pass *that* law, to *protect* and to prevent the *constitutional* money from being superseded and converted into *MERCHANTIZE* by municipal (alias) paper money, whether issued by corporations or by individuals. In fact, it should be entitled "*A law to protect and control the National Treasury THROUGH the National measure of value*," in which duties, imposts, and direct taxes must be paid and are imperatively required by the Federal Constitution to be "*uniform*." Municipal banking, therefore, by individuals under the *States*, is as unconstitutional and absurd as corporation banking was herein before proved to be, under State authority. Changing the *mode* changes not the essence of the usurpation, though it may weaken its influence by *individualizing* it, or breaking its *cohesion*, and so far may favor its final reform. But to reinstate order, harmony, and uniformity, the "*sceptre*" must be *restored* to Judah—the *UNITY of Government to the measure of value*.

## FEDERAL CONSTITUTION.

### *Proposed Amendments.*

*First*, It is proposed for consideration, first, that the President and Vice President of the United States shall be elected for five years ONLY, and declared ineligible afterwards.

*Second*, That the election shall be made *definitively* by a college of Electors, which shall be in number equal to what each state shall be entitled to have at any time thereafter, under the present system of apportionment.

*Third*, That each state shall be divided by Congress after each census into just so many electoral districts as each may be entitled to have of numbers in the Electoral college.

*Fourth*, That Congress shall designate and permanently fix by law some *one* day when the whole people of the United States entitled to vote shall convene at their respective election precincts and choose *one* Elector for each District, who should be required to be an inhabitant of said District, and a native born citizen of the United States.

*Fifth*, Each member thus elected with due authentication of his election, according to the law of each state, which should be declared to be final and conclusive, should be required to meet at the seat of the General Government on a given day, and at least thirty days before the convention of the ensuing session of Congress next preceding the expiration of the Presidential term for the time being, and when convened and organized as an electoral college, shall vote by ballot for President and Vice President of the United States until they shall have *definitively* made and certified the election to Congress.

*Sixth*, The members of said college should be de-

clared to be ineligible to any office within the nomination or gift of the President elected by them for the time being.

1st. It is obvious that the above scheme would give independence and dignity to the Presidential office, and character, by the *mode* of election.

2d. It would place all his patriotism and aspirations for high-souled distinction in full requisition, and invite him by the very strongest considerations to be the President of his *country* and not of a party.

3rd. It would moreover provide the most certain, prompt, simple, definitive and enlightened method to conduct and close the election by the people themselves, through the medium of a *select* body of their most experienced and best citizens, chosen in each district from among themselves and by themselves, to execute the special trust, and that *only*, and to return to themselves without *hope* of reward except the approval of their constituents and that of their own consciences.

4th. It would remove all "heart burnings" and corroding sense of personal neglect and injustice, by providing an *equal* and fair chance for every highly estimable patriot of this already extensive and growing confederacy, to be put in nomination before the college for the highest offices in the gift of the people.

5th. By dividing each state and *consequently* the action of the people into Electoral Districts of small dimensions, the election of President will be made quiet and entirely safe, by discharging popular excitement by *platoons*, as in the elections for members of Congress at this moment, in which "all nature's difference keeps all nature's peace." Whereas under the present system of two organic conventions to supersede\* the contingency contemplated and provided for

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\* It is obvious that the *two* convention scheme to elect the President and Vice President of the United States operates the *exclusion* of all other candidates except four; virtually disfranchises the people to that extent, and *takes* the contingent election from Congress and transfers it to PARTY. The people are in fact by



by the Federal Constitution in the election of President and Vice President of the United States, party will be periodically hurled against party—States against States—the North against the South—**ABOLITIONISTS** against **SLAVE-OCRATS**--*masses of men against masses of men—Geographical and Political, organized into two great Parties*, burning with all the fire of rivalry and ambition—chafed by the deep conviction of mutual injury, proscription and injustice, and lashed into madness by the ferocious eloquence of designing demagogues and the fanatical ravings of misguided zealots. And then the question will *not* be whether the “egg should be broken at the larger or smaller end,” nor whether a “Hickory broom” or a “Cider barrel” shall constitute the highest claim to popular confidence and favor ; but whether the North or the South, or the rich or the poor, shall hold the balance of political power to give *law and office* to this Union, or “to do the greatest good to the greatest number,” *right or wrong*.

6th. The proposed amendment would supersede the necessity which *now exists* of party caucussing in Congress and out of it, to *organize and concentrate popular action*, and thereby to suppress and to corrupt the popular will, and to set aside the just pretensions of worthy citizens to *equal* nomination ; and by men too who have no right to put up and to put down by destroying individual independence and moulding public sentiment to subserve the purposes of party, whether they be to keep in office or to get into office.

This necessity of private conventions and party organization which now exist, works corruption and looseness of political principles in the great body of the people in the exercise of the elective franchise—injustice to many of the best and most retiring and the most independent men in the country, and will finally put the election of the chief magistrate of this confed-

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the discipline of party ruled to move in the “wake” of two irresponsible, self-created conventions, to vote as a party and not as *citizens*.

eracy into the hands of the most vociferous, the most self-interested, the most impudent and the most active political partizans. Instead of the people taking the *incipient independent action* or lead in this transcendently important and delicate matter, the accepted plan by private convention will in time turn the whole over to Shavers, and Brokers, and Stockjobbers, and Officeholders, and Steam Doctors, and to the most forward, and to those who have most to hope in elections, and most to say abroad and least to do at home.

7th. The projet is in perfect harmony with the great principle of representation in Republics, in which the people elect the best citizens to do that for them which physically or otherwise they cannot do so conveniently or so intelligently for themselves.

8th. But the projet provides most effectually not only against the present constitutional contingency of an election of President and Vice President of the U. States by "the house" by a method the most pure, just, enlightened, and eminently republican, but it provides most effectually against another most alarming contingency which results from the present conventional scheme of only two candidates, and which at this very moment (for electioneering purposes) is made to stare the nation in the face, viz. : the POSSIBLE as well as the "reported" death of one of the candidates on the very heel of the election. Can any man imagine the consequences of the realization of the former in a very doubtful struggle of well balanced parties, since the latter is so much dreaded. But it may very frequently happen that an old man of sixty or seventy years, to whom the "grasshopper" is said to be a "burthern," would give way under the super-excitement and vexation of a severe canvass, conducted as they are evidently destined to be, under the present system of physical and mental effort, bitter personality and political "hurricane."

SECOND. I propose that that part of the fifth section of the first article of the Federal Constitution which declares that "each house shall be the judges of the

elections, returns and qualifications of its own members," be abolished. That this whole matter be turned over to the respective states, whose duty it should be made and whose interest it is, to keep pure and wisely regulated their *own elective franchise*, and to send their representatives with a clean sheet legally authenticated, which the amendment should declare to be final in all cases.

This scheme would be much more satisfactory to all the states and much less expensive to every body. In fact the *practice* under the *present* system has already become an enormous wide spread corrupting nuisance for political parties to dabble in. Had the contested election in the late New Jersey case been *confined* to *that* state, it would have been as a "tempest in a teapot" to a West Indian hurricane, compared to what the *whole* nation has witnessed and suffered already. It is evident that the policy of the Federal Constitution in relation to this matter was adopted without due consideration from the usages of the British Parliament; without adverting to the facts that this is a confederacy now composed of twenty-six sovereign states—that the political circumstances and internal relations of the two Governments are without analogy—are entirely different from each other; and therefore that the British "precedent" is totally inapplicable, and should not have been claimed for our Congress, which in these high party times as a *tribunal* in disputed elections have become the most expensive and the most exceptionable on the face of the earth.

The amendment therefore should make it the duty of the legislature of each state in all cases of disputed elections for members of congress or the electoral colleges to provide the most prompt and legal adjustment and certificate thereof, duly authenticated, which it should declare final of the dispute in *all* cases.

## A P P E N D I X.

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*Abstracts of the Federal Constitution referred to in the foregoing numbers.*

1. PREAMBLE : “ We the *People* of the United States, in order to form a more *perfect union*, establish *justice*, insure *domestic tranquillity*, provide for the *common defence*, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this CONSTITUTION for the United States of America.

### ARTICLE I.

#### SECTION 5.

“ Each house shall be the judge of the elections, returns and qualifications of its own members.

#### SECTION 8.

“ The Congress shall have power to lay and collect taxes, duties, imposts and excises ; to pay the debts and provide for the common defence and general welfare of the United States ; but all duties, imposts and excises shall be *uniform* throughout the United States.

“ The Congress shall have power to *regulate* commerce with foreign nations, and *among* the several states, and with the Indian tribes.

“ The Congress shall have power to coin money, *regulate* the value thereof, and of foreign coin, and *fix* the standard of weights and measures.

“ The Congress shall have the power to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

“ The Congress shall have the power to *raise and support armies*, &c.

“ The Congress shall have the power to exercise *exclusive* legislation in *all* cases *whatsoever* over such District (not exceeding ten miles square,) as may by cession of particular states and the acceptance of congress become the seat of Government of the United States, &c.

“ The Congress shall have the power to make *all* laws which shall be *necessary and proper* for carrying into execution the foregoing powers, and all *other* powers *vested* by this constitution in the government of the United States, or in any department or officer thereof.

#### SECTION 9.

“ The migration or importation of such *persons* as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation not exceeding ten dollars for each person.

“ No tax or duty shall be laid on articles *exported* from any state, &c.

#### SECTION 10.

“ No state shall enter into any treaty, alliance, or confederation ; grant letters of marque and reprisal ; coin money ; *emit bills of credit* ; make any thing but gold and silver coin a tender in payment of debts ; pass any bill of attainder, ex post facto law, or *law impairing the obligation of contracts* ; or grant, &c.

“ No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be *absolutely necessary* for executing its inspection laws.—No state shall without the consent of Congress lay any duty of tonnage, keep troops or ships of war in time of peace, &c. &c.

### ARTICLE IV.

#### SECTION 2.

“ No person held to service or labor in one state under the *laws* thereof, escaping into another, shall in consequence of *any* law or regulation therein, be discharged from such service or labor ; but shall be delivered up on claim of the party to whom such service or labor may be due.

## ARTICLE VI.

*“ This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land——any thing in the constitution or laws of any state to the contrary notwithstanding.”*

## A M E N D M E N T S.

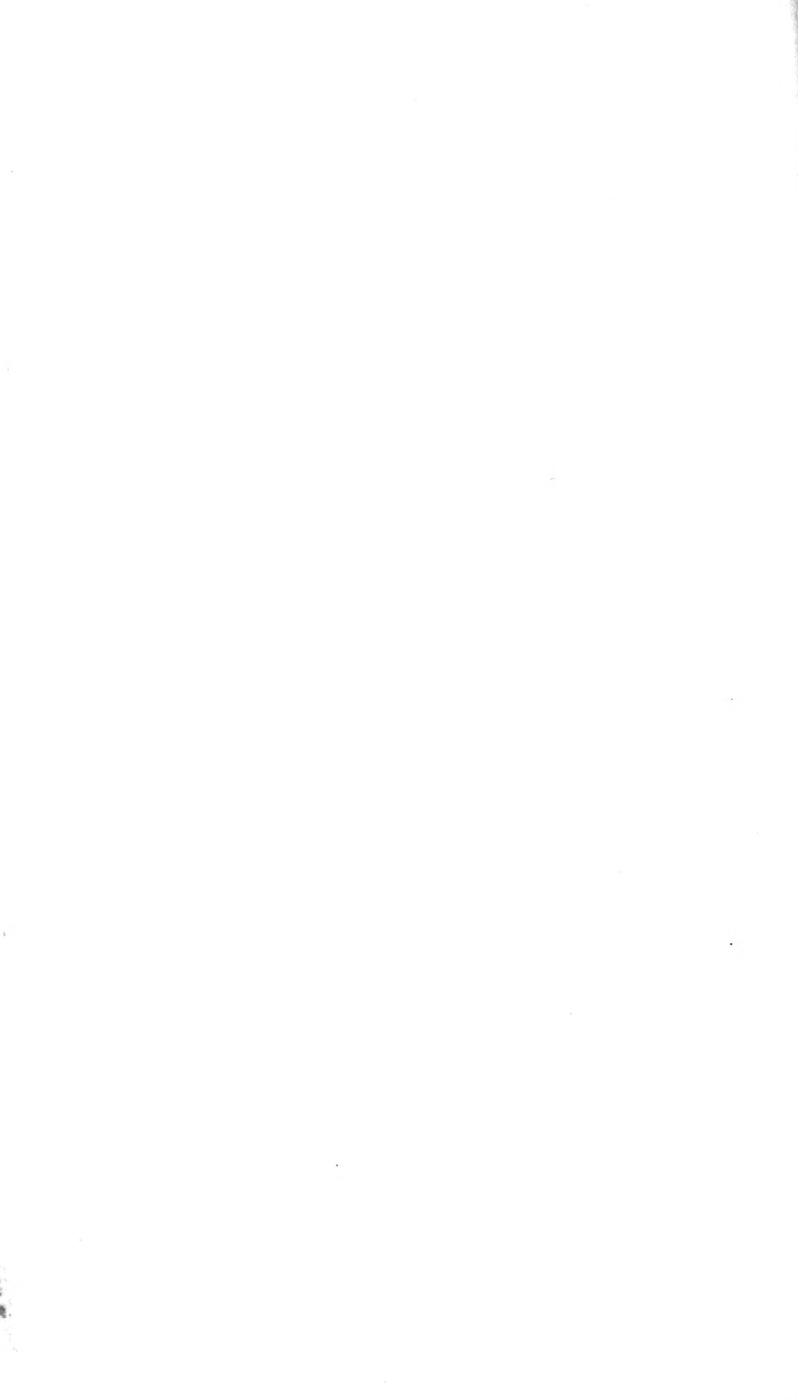
## ARTICLE IX.

“ The enumeration in the constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

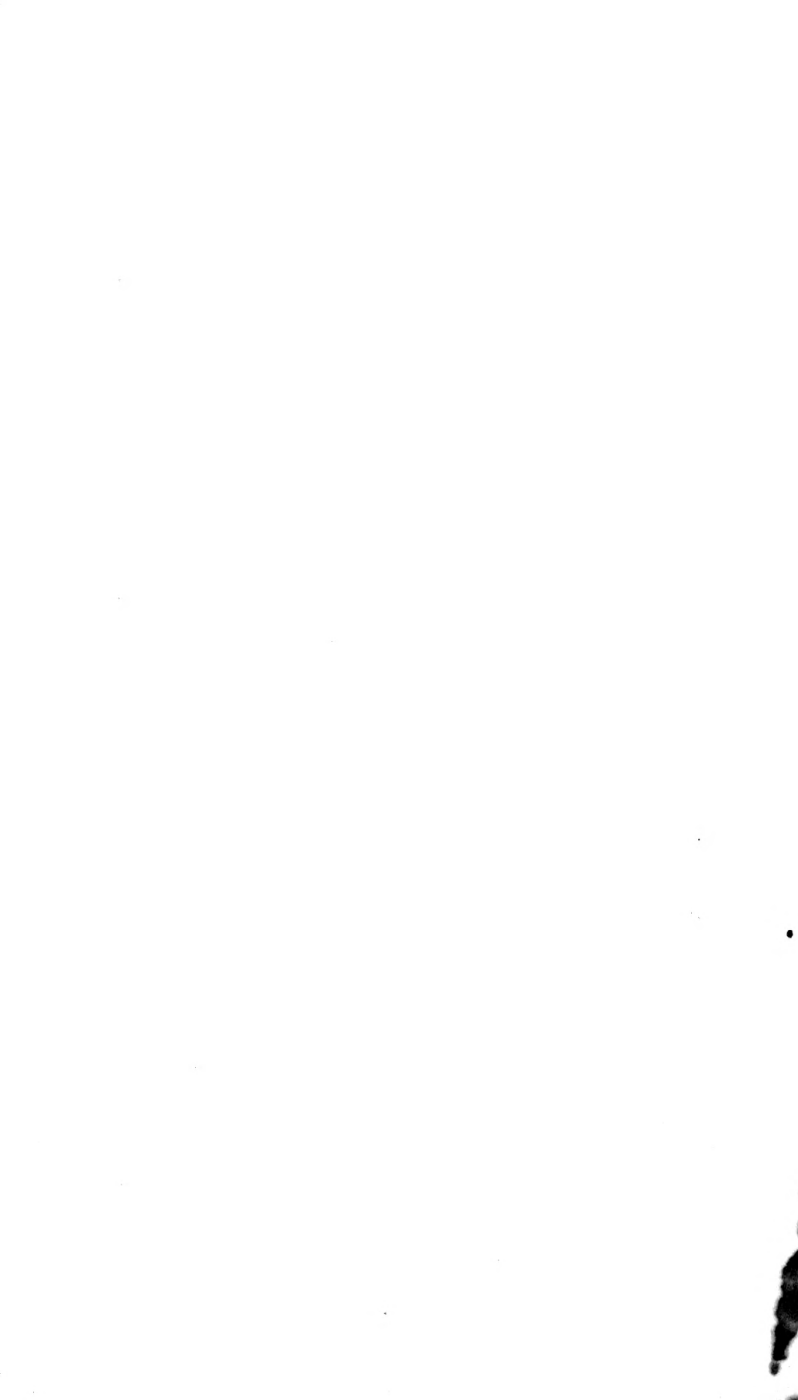
## ARTICLE X.

“ The powers *not* delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.”



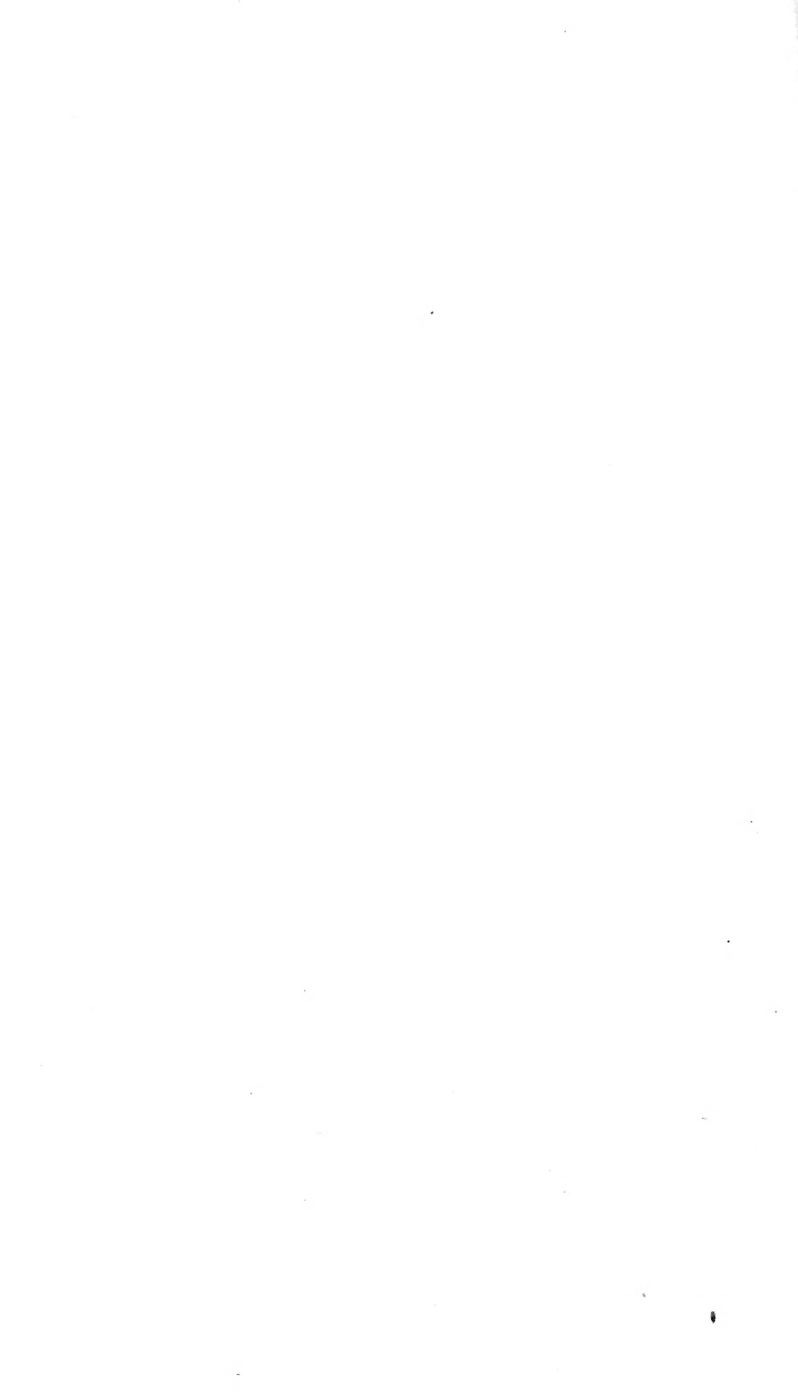








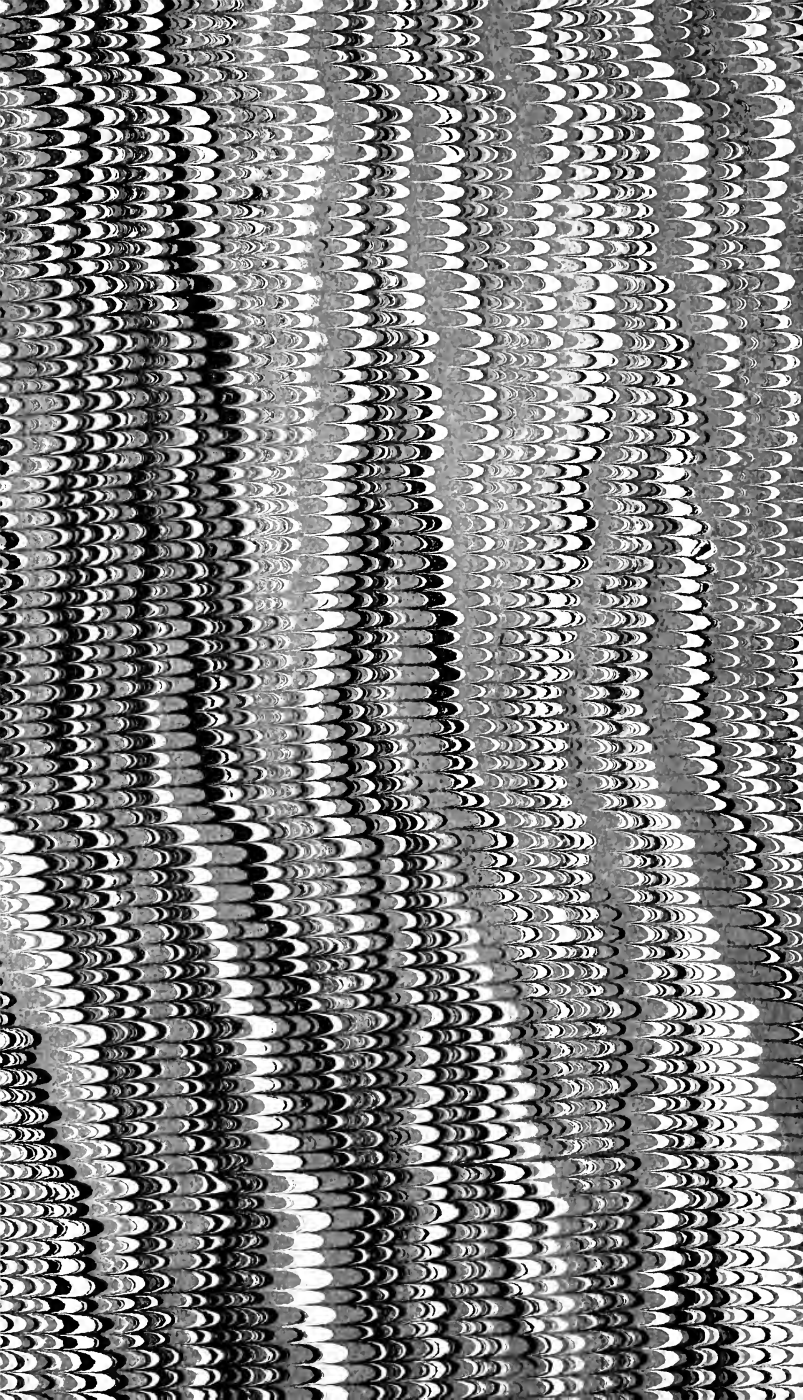




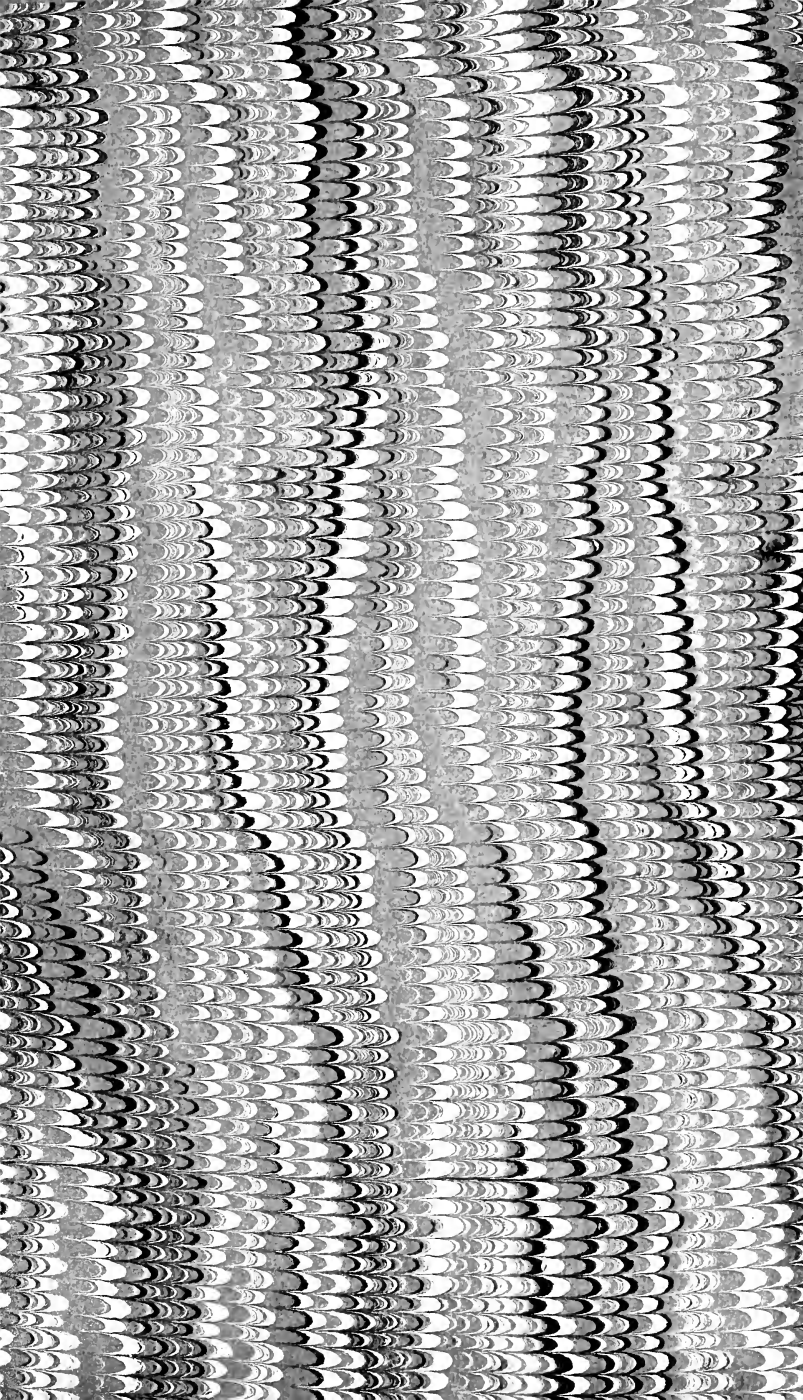












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